

December 22, 2016

FINAL REPORT

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A. Preliminary Report of Lincoln County Study Commission  
Findings of Fact (See Exhibit A)

- B. In 1974, the Montana State Constitution set forth that all counties would be governed by the Elected Official form of government. Lincoln County is an "Elected Official" form of government.

The statutory basis for elected county official government is MCA 7-3-111 and sub-option MCA 7-3-413 clearly states that local government elections **shall** be conducted on a partisan basis. In essence, the "partisan" component of Lincoln County government is the equivalent of an executive branch of government, which keeps our county form of government in balance as the third leg of a three legged stool.

- C. In 2009, the Board of Commissioners mistakenly held an election on November 9<sup>th</sup> which resulted in a change from partisan to non-partisan elections at Lincoln County. This error is a result of mistakes made at three levels:

1. Montana State University – State Level
2. Montana Association of Counties (MACO) – State Level
3. The Board of County Commissioners – County Level

This erroneous and wrongful action resulted in Lincoln County being in non-compliance with the law and the State of Montana Constitution.

- D. It is the intention of the Lincoln County Study Commission to assist the Lincoln County Board of Commissioners in bringing Lincoln County into compliance with the law and the Montana State Constitution.

As a result of non-compliance, Lincoln County has potential liability issues and is at risk of lawsuits, retrials and potential revocation of decisions made by the Board of County Commissioners. Additionally, the citizens of Lincoln County are denied their Executive Branch of balance of power at the county level.

The Lincoln County Study Commission performed considerable research including legal and professional advice from many professionals. We unanimously agree the best solution to bring Lincoln County into compliance with the law is by Resolution by the Board of County Commissioners.

We therefore ask the Lincoln County Board of Commissioners to pass a resolution to protect the citizens from potential liabilities, retrials and possible reversals of decisions made by the Board of Commissioners during the period of non-compliance. Pursuant to MCA 7-3-413, it is required by law that Lincoln County **shall** have partisan elections. We ask the Lincoln County Board of Commissioners to take the necessary steps to bring Lincoln County into compliance with the law, effective January 1, 2017.

- E. On September 28th, 2016 the Lincoln County Study Commission officially presented the Preliminary Report of Findings of Fact and recommended the Board of Lincoln County Commissioners pass a resolution in a timely manner rectifying the “Non-compliant” election status, returning Lincoln County to Partisan Elections.

At this meeting the Board of Commissioners voted to draft a resolution by December 15<sup>th</sup>, 2016 to bring Lincoln County into compliance. **(See Exhibit B and Exhibit C)**

- F. The Lincoln County Study Commission unanimously, highly recommends the Lincoln County Board of Commissioners adopt the resolution, prepared by Commissioner Greg Larson, returning to Partisan elections to become compliant with the law and Montana State Constitution.
- G. The Board of Commissioners met at Eureka, Montana November 16, 2016. The Lincoln County Study Commission again presented the Findings of Fact and discussed the importance of bringing Lincoln County into compliance with the law. *The study commission respectfully asked the commissioners to consider their fiduciary responsibility to protect the citizens of Lincoln County.* The Study Commission asked for the vote of the Board of Commissioners to pass the resolution to bring Lincoln County into compliance with the law and Montana constitution. **(See Exhibit D)**
- H. The Board of Commissioners met at Libby, Montana December 1<sup>st</sup>, 2016 with the Lincoln County Study Commission. The Board of Commissioners concurred they should pass the resolution to show their “intent” to bring Lincoln County into compliance with the law. They agreed this would be a good first step to show their intent, although the resolution would have no “real teeth.” They discussed several additional steps being considered, including District Court and/or Attorney General rulings, legislative fixes, as well as which parties should legally recuse themselves, such as Harold Blattie of MACO and Prosecuting Attorney, Bernie Cassidy. **(See Exhibit E)**

Former Commissioner Rita Windom, Lincoln County Study Commission, advised the Board of Commissioners against “kicking the issue down the road” as the liability issues to the county are real, and the issues have been studied at length.

The Board of Commissioners assured the Study Commission they would be prepared to do so prior to December 15<sup>th</sup>, 2016.

- I. The Board of Commissioners met December, 14, 2016 with the Study Commission. Commissioners Mike Cole, Mark Peck and Greg Larson have many times commended the Study Commission for their hard work and discovery of the non-compliance of the law, their dedication to the citizens of Lincoln County, and their support of the Board of Commissioners.

Commissioner Mark Peck commented at length why the commissioners are unprepared to fulfill their commitment. He said the commissioners are willing to pass the resolution; however, the Board of Commissioners failed to do so.

The many citizens of Lincoln County participating in their local government by attending meetings, providing letters, telephone calls, remain dissatisfied, frustrated and disappointed.

The Lincoln County Study Commission members are disappointed.

- J. The Lincoln County Study Commission would like to thank Commissioner Greg Larson for his integrity, steadfastness and support to the Study Commission and the citizens of Lincoln County.

Thank you, former Commissioner Rita Windom for the wealth of knowledge, keen insight and guidance.

Thank you, Robin Benson and staff, Clerk and Recorder’s office, for your professionalism and welcome assistance.

Our gratitude extends to the many professionals and individuals for their generous contributions to the Lincoln County Study Commission and the citizens we serve.



## I. LETTER TO THE CITIZENS OF LINCOLN COUNTY

To the Citizens of Lincoln County:

The Lincoln County Local Government Study Commission elected on November 4, 2014, present this final report to the citizens of Lincoln County.

The purpose of the Study Commission, as defined by state law, is "to study the existing form and powers of our county government and procedures for delivery of local government services and compare them with other forms available under the laws of the state". After completing these two phases of the study it is the responsibility of the Study Commission to submit a final report. If some change is deemed necessary, the Study Commission may submit such proposed change to the qualified electors.

In every phase of this review, this study commission widely publicized its purpose and meetings and invited the public to attend, and also sought advice and information from as many people in the county as possible. Opinions and recommendations were solicited from local government officials, community organizations and citizens. All meetings were open to the public. In addition, four Public hearings were held the spring and fall of 2016 in the towns of Eureka and Libby, Montana.

In this final report we present our recommendations, based on our Preliminary Report - Findings of Fact, to become compliant with the law and the Montana State Constitution by returning Lincoln County to the Partisan Elections required by the Montana Constitution for Elected County Official Form of County Government.

We believe, based upon the law, historic election results, and public input, this will provide the maximum ability for the public to participate in our governmental services both today and in the future.

The Lincoln County Local Government Study Commission finds that Lincoln County functions well under the Elected County Official Form of government as provided under Montana Code 7-3-111.



## LINCOLN COUNTY STUDY COMMISSION

### II. REPORT SUMMARY

The Lincoln County Local Government Study Commission studied our present form of Elected County Official form of government and the alternative forms of government available under Montana state law. We also studied the future governmental needs of this county.

*The Lincoln County Study Commission values the input offered by citizens at public forums, public meetings, public hearings, extensive interviews, questionnaires, and public comments.*

As a result, the Lincoln County Local Government Study Commission unanimously recommends retaining the Elected County Official form of Government.

We continue to recommend the Board of County Commissioners take the timely, necessary steps to return Lincoln County to compliance with the law and Montana State Constitution, returning partisan elections.

# Montana Code Annotated 2015

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**7-3-111. Statutory basis for elected county official government.** (1) For the purpose of determining the statutory basis of existing units of local government after May 2, 1977, each unit of local government organized under the general statutes authorizing the elected county official form of government shall be governed by the following sections:

- (a) 7-3-401;
- (b) 7-3-402;
- (c) 7-3-412(3);
- (d) 7-3-413(1);
- (e) 7-3-414(1);
- (f) 7-3-415(2);
- (g) 7-3-416(2);
- (h) 7-3-417(2);
- (i) 7-3-418;
- (j) 7-3-432(1);
- (k) 7-3-433(1);
- (l) 7-3-434(1);
- (m) 7-3-435(1);
- (n) 7-3-436(1);
- (o) 7-3-437(1);
- (p) 7-3-438(1);
- (q) 7-3-439(1);
- (r) 7-3-440(1);
- (s) 7-3-441(1);
- (t) 7-3-442(1) if the county has elected an auditor;
- (u) 7-3-442(6) if the county has not elected an auditor.

(2) This form has terms of 4 years for all elected officials except commissioners who are elected to 6-year terms. The commission consists of three members.

**History:** En. 16-5115.1 by Sec. 4, Ch. 513, L. 1975; R.C.M. 1947, 16-5115.1(3).

# Montana Code Annotated 2015

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**7-3-413. Type of election.** Local government elections shall be conducted on a:

- (1) **partisan basis**; or
- (2) **nonpartisan basis**.

**History:** En. 47A-3-205 by Sec. 1, Ch. 344, L. 1975; amd. Sec. 3, Ch. 351, L. 1977; R.C.M. 1947, 47A-3-205(2)(b); amd. Sec. 5, Ch. 79, L. 1983.

*Provided by Montana Legislative Services*



Exhibit A:

Lincoln County Study Commission Preliminary Report – Findings of Fact

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February 18, 2009

The Lincoln County Board of Commissioners met for a regular session on February 18, 2009, in the Eureka annex of the Lincoln County Courthouse. Present were Commissioner John Konzen, Commissioner Margaret Potts, Commissioner Tony Berger, Executive Assistant Bill Bachoff and Clerk and Recorder Tammy Lauer.

10:30 AM Commissioner Konzen called the meeting to order with the Pledge of Allegiance.

10:31 AM Carol Ramos, Victims Witness Grant Application. Chrissy Graham, Eureka advocate was present. Carol presented the grant application to the Commissioners and discussed the changes. Commissioner Roosa moved to approve the grant application and it was carried.

10:40 AM The Commissioners talked about the method needed to get the junk mobile homes taken care of in the County. It was discussed that the County could destroy and haul away the mobile homes that owners are asking to give permission for. The County could do it with Libby's excavator and the other road crews will help in their areas. The Commissioners would also like to set aside a full month that individuals can bring mobile homes to the landfills without any fees.

10:55 AM The Commissioners read the minutes of the January 28, 2009 meeting. Commissioner Roosa moved to approve the minutes as written and it was so moved.

11:00 AM Eureka Senior Citizens. Jim Reynolds, Bert Leaver, Claudia Evans, Krista Timmer and Tracy McIntyre are present. Jim Hurst has donated some money and land to build a new center. They have approached Tracy to request grant money for Community Development. The ground breaking is set for spring of 2010. Commissioner Roosa moved to support the CDBG grant application contingent upon the Sr. Citizens qualifying for the grant and the engineering of the building continuing to be compatible to the grant requirements. This is for a two year commitment and Tracy will follow up with the plans to the Commissioners and keep them informed as to the progress of the application. The motion carried after a discussion about the funds being tied up for two years.

11:35 AM Tracy McIntyre, Business Park update. The Tobacco Valley Industrial Park has 2 clients interested. They are asking for permission to apply for stimulus money and an appropriation request. The appropriations for septic, water and roads. Commissioner Berger moved to support their request and it was carried. Tracy needs to create a Tax Increment Finance District now that a big business is interested in the area. The request is in the County Attorney's office. Tracy is asking that the Commissioners encourage the County Attorney to complete the resolution so the process can begin.

1:30 PM Subdivision Review. Lisa Oedewald.

1:31 PM MBMI Development Inc., 11 lots, Preliminary Plat Location. Lisa presented the subdivision and conditions. Commissioner Berger moved to approve the subdivision as preliminary plat according to planning staff recommendations and the motion carried.

1:35 PM Old Pine Subdivision, 5 lots, final plat approval. Commissioner Roosa moved to approve the final plat and it was carried.

1:38 PM Thomson Subdivision, Amended lot 3A of 2A of Lot 2 and 3 Kettlehorn 2, 2 lots, final plat approval. Conditions have been met. Commissioner Roosa moved to approve the final plat and it was carried.

1:40 PM Marek Subdivision, 2 lots, final plat approval. Commissioner Roosa moved to approve the final plat and it was carried.

1:45 PM Sunnyside Hills, Amended Lot 1 Tony Peak Views, 2 lots, final plat approval. Conditions have been met. Commissioner Roosa moved to approve the final plat and it was carried.

1:49 PM Mountain FootHills Estates Phase 1, 21 lots, final plat approval. Commissioner Berger moved to approve the final plat and it was carried.

1:54 PM Court Ordered Split. Dissolution of Marriage for Steven and Cheryl Giebat. Commissioner Roosa moved to approve the split and it was so moved.

1:55 PM Cleo Lindo Estates #2, extension request. The developer is requesting a one year extension to build a road due to the escalating costs. Commissioner Roosa moved to approve the one year extension and it was so moved.

2:00 PM The Commissioners discussed some subdivision issues with John Damon from Kootenai Surveyors.

2:24 PM Commissioner Konzen and Commissioner Roosa signed a letter to the County Attorney Bernarr Cassidy requesting that he research the issue of non-partisan elections. It will be delivered to the County Attorney tomorrow.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Commissioner John Konzen, Chairman

ATTES: Tammy D. Lauer, Clerk of the Board

Bernie Cassidy

From: Mike Sehestedt [msehestedt@mlcounties.org]  
Sent: Thursday, May 14, 2009 2:43 PM  
To: Bernard Cassidy  
Cc: Harold Blattie  
Subject: Alteration to form of government to provide for nonpartisan elections

Thanks for the materials on the form of government in Lincoln County and the correspondence on alteration of the form to provide for nonpartisan elections.

By way of background the "Elected Official" form of government was set out in statute at the same time the Alternative Forms of Government were established by statute to provide clarity and to establish a base line for existing governments. It really isn't a separate form of government rather it is just one of the variants possible under the "Commission" form of government. That said, to change Lincoln County's form of government to provide for the election of County Officers on a nonpartisan basis requires a fairly detailed process but one that is spelled out in statute.

The only way a form of government can be changed is by a vote of the people ( See Constitution Art. XI, Sec. 3 and MCA 7-3-103) and there are two ways to get the question of altering the form of government before electors either by a petition signed by 15% of the electors proposing an amendment or by an ordinance enacted by the governing body proposing the amendment. Since my understanding is that what is being considered is that the Commissioners would put the proposed amendment forward, I won't further discuss the petition process in this email.

The first catch or trick in the process is that MCA 7-3-103(2) requires that the Commissioners to act by adopting an ordinance. Since Counties don't generally act by adopting ordinances the procedure maybe unfamiliar but it is spelled out in MCA 7-5-103. The ordinance adoption process generally requires that the ordinance be submitted in writing, that the proposed ordinance address only one comprehensive subject, that the ordinance be read and approved by a majority vote at two meetings of the governing body not less than 12 days apart, and that after the first reading and approval that the proposed ordinance be posted and copies made available to the public. While not particularly onerous these requirements are unique to the ordinance adoption process.

Of course the first and subsequent readings of the ordinance would need to be on the commissioner's agenda so the public had notice and the public will have to be given the right to comment as with any other commission action. While not, strictly speaking, required I would suggest noticing up a preliminary hearing on the subject to gauge support/opposition to the proposal and to help in formulating the actual ordinance if proceeding seems desirable after the initial hearing on the subject.

The actual ordinance should be easy to draft. Essentially you are amending the existing form of government by changing from the partisan election option for the commission/elected official form of government as set in section 7-3-413 (1) MCA to the nonpartisan election option for the commission/elected official form of government as set out in section



7-3-413(2) MCA. The ordinance should direct the election administrator to submit the question to the electors at a specified election (see below for issues on election timing) and should specify an effective date (see below for issues on the effective date of changes).

Election timing may be an issue since the general rule is that the election has to be called at least 75 days before the election (see sections 7-3-149 and 7-5-136 MCA). There is also the apparent requirement that the special election on an alteration in a form of government be held "at the next regular or primary election" (See sections 7-3-149(1) and 7-3-103(2) MCA; Also see section 7-5-136(1) MCA for the general requirement that even special elections on County referendums be "held in conjunction with a regular or primary election"). Regular and primary election days are set by statute with section 13-1-104 MCA providing that the regular election days are the first Tuesday after the first Monday in even numbered years for federal, state, and county offices and in odd numbered years for municipalities. Section 13-1-104 MCA also provides for a regular election day on the first Tuesday after the first Monday every May for school elections. Primary elections are established by section 13-1-107 MCA which specifies the first Tuesday after the first Monday in June in even numbered years and the Tuesday following the second Monday in September, if required, for municipal elections. What all of this means in practical terms is either paying the extra expense to make the municipal or school elections county wide or waiting until the June 2010 primary. Because of the requirement that the election on altering a form of government be held "at the next regular or primary election" I don't think that you can have a special election, even by mail ballot, on a date that is not a regular election day. Since section 13-19-104 (3)(c) MCA prohibits mail ballot elections on dates "when another election in the political subdivision is taking place at the polls on the same day", I think it will be very difficult to use the May school election day or the municipal election dates in September and the odd numbered November for a mail ballot election because it seems very likely that there will also be elections going on at the polls in at least some districts or municipalities within the county on those dates.

There is also some ambiguity on the date when the change in form becomes effective. Section 7-3-103 (1) MCA provides that: "An amendment approved by the electors becomes effective on the first day of the local government fiscal year following the fiscal year of approval unless the question submitted to the electors provides otherwise." Section 7-3-156 (2) MCA provides that an amendment becomes effective at the beginning of the next fiscal year without reference to the possibility of a different effective date being established by the electors. Since all of this is driven by the will of the people, I would resolve the ambiguity by allowing the electors to establish the effective date as a part of the election. This is an important question since some of the election dates are in May or June of 2010 and the fiscal year changes on July 1st which will or could create a potential problem with offices required to be elected on nonpartisan basis being contested by candidates nominated in a partisan primary prior to the effective date.

As a practical matter I think that you are going to have to wait until the 2012 election cycle for this provision to take effect assuming that the Commissioners chose to proceed and that the electors approve. By my reading of the statutes the earliest practical (or at least likely) election that this question could be submitted is June 2010. Assuming that electors approve the change the primary for the November 2010 general election will have been held on a partisan basis at the same election this change is approved and I can see no way to convert the November 2010 election to nonpartisan with the process half completed.

I hope that this helps.

Michael W. Sehestedt

Chief Counsel

Montana Association of Counties

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LINCOLN COUNTY ATTORNEY

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(406) 293-2717

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Bernard G. Cassidy  
County Attorney

Robert Stomski  
Marcia Boris  
Deputy County Attorney

May 18, 2009

Board of Commissioners  
Clerk and Recorder Tammy Lauer  
Leigh Riggleman, Election Administrator  
512 California Ave.  
Libby, MT 59923

COPY

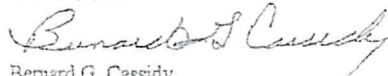
Dear Commissioners and others:

Attached please find a copy of correspondence from Mike Schestedt, Chief Legal Counsel for the Montana Association of Counties, concerning altering the Lincoln County elected commission form of government from partisan to nonpartisan. I find Mr. Schestedt's opinion very clear, informative, and helpful on the above question.

I think the bottom line is, as he sets forth at the bottom of page two, that if the Commissioners wish to adopt an ordinance changing from a partisan to a nonpartisan basis, and said ordinance is put before the voters for approval, that is not going to be able to be completed until 2012, because the earliest possible time to put the question on the ballot will be the June 2010 primary.

Please review the attached. If you have any questions or concerns, feel free to contact me, and I will address those concerns, or discuss them with Schestedt.

Sincerely yours,



Bernard G. Cassidy  
Lincoln County Attorney

kbj



Leigh Riggleman

From: Bernie Cassidy  
Sent: Thursday, May 21, 2009 10:58 AM  
To: Mike Sehestedt  
Cc: Leigh Riggleman  
Subject: FW: Additional Question or two

Mike,  
Would you please take a look at this and give me your thoughts. It looks to me as if this could be done pursuant to 13-19-104(4)(a).

I am going to try to meet with Leigh concerning the procedures outlined at 13-19-202(1),(2) and 13-19-205. Even if it can be done, I think it will be difficult to get all the governing bodies to draft resolutions and hold hearings concerning conducting municipal elections via mail ballot or to object to a mail ballot. 13-19-203, 204.

Even if those issues can be resolved, there still remains an ambiguity, in my opinion, between 13-19-104(2) and the specific language concerning "regular or primary election" found at 7-5-103(2) and 7-5-136. Any help you can give is appreciated.

Thanks,  
Bernie

From: Leigh Riggleman  
Sent: Wednesday, May 20, 2009 4:52 PM  
To: Bernie Cassidy; Tammy D. Lauer; John Konzen; Anthony J. Berget; Bill Bischoff; Marianne Roose  
Subject: Additional Question or two

Good Afternoon Bernie - I received a copy of your letter and Mike Sehestedt's opinion on our ability to hold a mail ballot election for the partisan/non partisan issue for county government on the same day that our Municipal Election will be held in November. I do have a couple of additional questions that I need to ask.

Our thought on this would be that we would also conduct the Municipal Election as a mail ballot election as well and not have polls open in the cities and towns. I have checked with the Secretary of State's office on the issue of conducting these two elections at the same time, but referred us back to your office and MACO to make sure we are above board and legal on this one! The partisan/nonpartisan ballot issue would be on a separate ballot for the entire county and would include a specific effective date if the issue is passed by a majority vote. Those electors registered within the municipalities would receive 2 ballots and instructions to vote both ballots.

If you could get back to me in the next week, and conducting these elections in November would be possible, we would have the ability to give notice to the papers that the Commissioners will be discussing this issue, welcome public comment and get the 2 required readings voted on and then held well ahead of the 75 day time frame that is legally required to call for an election on this partisan/non partisan issue to amend the plan to the Commission form of government.

only 1 day  
where  
Aug 5?  
vote?

5/21/2009

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Thanks, Bernie - in advance - for your timely response to my additional questions.

Regards,

Leigh Riggleman  
Lincoln County Election Department  
512 California Avenue  
Libby, MT 59923  
406-293-7781, ext 283  
leigh@libby.org

5/21/2009

7

L. Harold Blattie  
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NOTE: My email address has changed to: [hblattie@mtcounties.org](mailto:hblattie@mtcounties.org)

Please update this information in your address book.

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**From:** Leigh Riggleman (<mailto:leigh@libby.org>)  
**Sent:** Wednesday, June 17, 2009 10:02 AM  
**To:** Harold Blattie  
**Subject:** Lincoln County Non-Partisan Election

Good Morning Harold -

John Konzen let me know this morning that he and Marianne Roose had talked with you last week and that, after some investigating on your part, you let them know that our intention to hold a special election for the Partisan/Non Partisan issue was not legal.

Bernie Cassidy had consulted with Mike Schestedt on the issue and then gave me an opinion that we would probably not have enough time to get the public hearings scheduled in a timely manner, that we could not hold a Municipal election with polling places open at the same time a mail ballot election was being held and that there was a time conflict where the city boards could conceivable object to the mail ballot process that could cause problems in our mail ballot time line.

I believe we have resolved all these issues. As of today, I have all 4 municipalities on board and am

6/17/2009

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*where are these resolutions?*  
 waiting for signed resolutions in the mail giving us permission for conducting a mail ballot election. This means that the polling place issue has been resolved as well as the issue that the boards might object. Now that we have permission from the city councils, we will advertise the public hearings (scheduled two weeks apart) so that the County Commissioners can then pass an ordinance to change county elections to non partisan with specifics on the date the issue will be effective if voters in Lincoln County pass the issue.

I do have a copy of my County Attorney's letter to me as well as the email that Mr. Schestedt sent to Bernie if you would like me to email you those copies. At this point, we have fulfilled all the concerns and points that both attorneys have raised, but would like further confirmation after hearing from John and Marianne that it wasn't doable. Any help would be appreciated.

Regards,

Leigh Riggleman  
 Lincoln County Assistant Election Administrator  
 512 California Avenue  
 Libby, MT 59923  
 406-293-7781, ext 283  
 leigh@libby.org

6/17/2009

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Leigh Riggleman

From: Harold Blattie [hblattie@mtcounties.org]  
Sent: Wednesday, June 17, 2009 4:09 PM  
To: Leigh Riggleman  
Cc: Mike Sehestedt  
Subject: RE: Lincoln County Non-Partisan Election

Leigh,

I just spent some time with Mike Sehestedt and rather than both of us being involved, he will respond your e-mail. In reviewing his May e-mail, Mike arrived at the same conclusions I had expressed to John and Marianne.

One comment in your e-mail that I will address is related to ordinance adoption. You said: "we will advertise the public hearings (scheduled two weeks apart) so that the County Commissioners can then pass an ordinance to change county elections to non partisan with specifics on the date the issue will be effective if voters in Lincoln County pass the issue."

I just want to make you aware of some of the specific requirements related to ordinances. Technically, you do not hold "hearings", the governing body "reads" ordinances. Also the effective date is 30 days following the last reading.

7-5-103. Ordinance requirements. (1) All ordinances must be submitted in writing in the form prescribed by resolution of the governing body.

(2) An ordinance passed may not contain more than one comprehensive subject, which must be clearly expressed in its title, except ordinances for codification and revision of ordinances.

(3) An ordinance must be read and adopted by a majority vote of members present at two meetings of the governing body not less than 12 days apart. After the first adoption and reading, it must be posted and copies must be made available to the public.

(4) After passage and approval, all ordinances must be signed by the presiding officer of the governing body and filed with the official or employee designated by ordinance to keep the register of ordinances.

7-5-105. Effective date of ordinance. No ordinance other than an emergency ordinance shall be effective until 30 days after second and final adoption. The ordinance may provide for a delayed effective date or may provide for the ordinance to become effective upon the fulfillment of an indicated contingency.

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hblattie@mtcounties.org  
www.maco.coz.mt.us

7/14/2009

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NOTE: My email address has changed to: [hblattie@mtcounties.org](mailto:hblattie@mtcounties.org)

Please update this information in your address book.

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**From:** Leigh Riggelman [mailto:[leigh@libby.org](mailto:leigh@libby.org)]  
**Sent:** Wednesday, June 17, 2009 10:02 AM  
**To:** Harold Blattie  
**Subject:** Lincoln County Non-Partisan Election

Good Morning Harold --

John Kenzen let me know this morning that he and Marianne Roose had talked with you last week and that, after some investigating on your part, you let them know that our intention to hold a special election for the Partisan/Non Partisan issue was not legal.

Bernie Cassidy had consulted with Mike Schestedt on the issue and then gave me an opinion that we would probably not have enough time to get the public hearings scheduled in a timely manner, that we could not hold a Municipal election with polling places open at the same time a mail ballot election was being held and that there was a time conflict where the city boards could conceivably object to the mail ballot process that could cause problems in our mail ballot time line.

I believe we have resolved all these issues. As of today, I have all 4 municipalities on board and am waiting for signed resolutions in the mail giving us permission for conducting a mail ballot election. This means that the polling place issue has been resolved as well as the issue that the boards might object. Now that we have permission from the city councils, we will advertise the public hearings (scheduled two weeks apart) so that the County Commissioners can then pass an ordinance to change county elections to non partisan with specifics on the date the issue will be effective if voters in Lincoln County pass the issue.

I do have a copy of my County Attorney's letter to me as well as the email that Mr. Schestedt

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sent to Bernie if you would like me to email you those copies. At this point, we have fulfilled all the concerns and points that both attorneys have raised, but would like further confirmation after hearing from John and Marianne that it wasn't doable. Any help would be appreciated.

Regards,

Leigh Riggleman  
Lincoln County Assistant Election Administrator  
512 California Avenue  
Libby, MT 59923  
406-293-7781, ext 283  
leigh@libby.org

7/14/2009

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July 1, 2009

The Lincoln County Board of Commissioners met for a regular session on July 1, 2009 in the Lincoln County Courthouse. Present are Commissioner John Konzen, Commissioner Marianne Roose, Commissioner Tony Berget, Executive Assistant Bill Bischoff and Clerk and Recorder Tammy Lauer.

9:00 AM: Commissioner Konzen opened the meeting with the Pledge of Allegiance.

9:00 AM: **USFS Update:** Kami Winslow, Paul Stanus, Ted Anderson and Brad Fuqua are present. Kami reported that the **Gozzly Bear** amendment is in progress. Montanore Mine comment period is underway. Over 3000 form letters were received as well as many more comments. The letters were mostly from an environmental group. They are trying to stop the mine. There was a discussion about the Montanore mine. MillerWest Fisher project is in process. Stimulus money has been about \$13 million received so far. Paul will fill the Commissioners in on the specifics in the future. The projects will be contacted out in the most part. Some of the projects are for this year and some are for next year. They have until September 30, 2010 to use the money. Paul talked about the repairs to some roads. They have been meeting with Economic Development people about some projects to see if people are interested in working on some projects. Paul Rumlhart is working on a meeting to speak to interested parties. Ted spoke about the Growth Policy and the objectives which would involve the Forest Service. The Forest Plan is dramatically different from the Growth Policy. Ted would like to see a MOU written between the Forest Service and the Commissioners in order to make certain that there is an understanding between the two. Hard copies of the growth policy should be given to the Forest Service so they can have an idea of the Commissioners priorities. There was a discussion about the Coordinating and cooperating status issues that is already in process and the individuals involved. Ed Levert commented on the WUI that is mapped out for the County.

10:02 AM: **Ed Levert-Wildfire Presentation:** Present are Ed Levert, Vic White, Brad Fuqua, Jerry Rust and Roby Bowe. Ed has been working for about 6 months on a **Wildland Fire Progression Risk Analysis** sponsored by Lincoln County and funded by a grant. Ed presented a Power Point on his findings. He went through a scenario of a fire in Lincoln County and the actions taken. He used the **Parmenter Fire** from last summer as an example. His scenario showed the Commissioners how quickly Libby could be involved in a fire. The fire could have been in the Libby City Limits in 6 hours. He talked about burns and treatments that are currently being planned. Ed talked about the City of Libby being less than eager to take any actions to support fire wise fuel reductions. Commissioner Berget moved to send a letter to the City of Libby encouraging them to partner in a fire wise community. The motion carried. Commissioner Berget also moved to write a letter in support of the Flower Creek project. Commissioner Konzen noted that Ed brought this project to the Stakeholders and they jumped on it immediately and so did the Forest Service. The motion carried. There was a discussion of some of the availability of fire fighting materials in the Libby area.

11:00 AM: **Cabinet View Fire Service Area:** Jim Luscher, Coral Cummings, Roby Bowe, Robert Mast, Brad Fuqua, Howard Troyer and Betty Troyer are present. Jim began by stating that they feel the dispatch situation is not good. He presented the Commissioners with a four page Declaration of Intent and Dispatch Instructions to Sheriff's Dispatch. Commissioner Konzen noted that the Sheriff has the decision on this. Jim said that they are asking the Commissioners to help facilitate the discussion with the Sheriff's department. Coral said that there is an annexation in process to get more area in the CVFD district and the FRVFR district to get rid of the area that is not covered by any fire department. Coral stated that the CVFD has no intention of getting an ambulance service, however she had stated earlier that they would be responding to medical calls as first responders. Commissioner Konzen said that it sounds like boards need to meet with boards involved to reach agreements and that the Commissioners are not really involved in these processes.

11:31 AM: **Road Oil Bids:** Commissioner Konzen opened the only bid submitted by McAsphalt Industries Limited of Canada. Allan Mayhew from McAsphalt explained that this time of year the cost is the highest that asphalt costs. They store oil in November for the next season because it is cheapest in those months. Asphalt is cheaper this year than last year. Commissioner Berget moved to approve McAsphalt Industries bid for oil services and it carried.

11:53 AM: **Cabinet View Fire Service Area Board** is requesting that Jeff Mauled be appointed to fill the position left open by Jeff Grotjohn and that Betty Troyer be reappointed to her position. Commissioner Berget moved to approve the appointments as requested and it carried.

1:30 PM: **Subdivision Review:** Kristin Smith and Lisa Oedewald.

1:30 PM: **Amended Lots 3 and 4, Riverdale Subdivision, 9 lots, public hearing:** Present are Susan Sutherland, Tim Rodney, John Damon, Byron Sanderson and Ed Eggleston. Lisa opened the public hearing and presented the subdivision and conditions. She opened the public hearing. Susan Sutherland is the adjacent landowner. She looks out her front door at the proposed subdivision. Her first concern is water quality. She has a well that is downhill and downstream from the subdivision. She is also concerned about the road not being able to handle the increased traffic. She addressed noise pollution. She asked about the farmland laws. This is one of the few segments of land that can be farmed. She read excerpts from the Growth Policy. She had no concerns that are valid. Tim Rodney stated that the road is a 25 mph road so sight should not be a problem. He feels that the subdivision should follow the growth policy by putting growth closer to town. Tungsten is working on the fire suppression issues with Libby Fire. The public hearing was closed at 1:54 PM.

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2:00 PM: **Sunset Ranch Subdivision**, 16 lots, public hearing. Present are John Damon, Byron Sanderson and Ed Eggleston. Kristin has met with the developer and is addressing her concerns on the subdivision. It was decided that the subdivision should be done in two phases. The first phase would have 10 lots and the second phase would be the remaining 6. Kristin showed pictures of the subdivision. Ed Eggleston was here to ask if his letter had been addressed from prior public hearing. His concerns are dust and water and well water contamination. Byron Sanderson addressed the issues. John Damon wanted to clarify a couple of items in the conditions. The public hearing was closed at 2:28 PM.

2:31 PM: **Esler Subdivision**, final plat approval. The conditions have been met and the subdivision is ready for final plat approval. Commissioner Berget moved to approve the final plat and it carried.

2:34 PM: **Moraine Subdivision**, final plat approval. The conditions have been met and the subdivision is ready for final plat approval. Commissioner Berget moved to approve the final plat and it carried.

2:37 PM: **Meadow Creek Estates**, final plat approval. The conditions have been met. Commissioner Berget moved to approve the final plat and it carried.

2:38 PM: **Family Transfer**: Don and Debra Davis want to transfer a parcel to their daughter Lucy Orr. There is no indication of evasion as the property has been in Davis' name since 1969. Commissioner Roosa moved to approve the family transfer and it carried.

2:39 PM: **Hidden Cove Subdivision**: Marquardt is asking to reduce the original number of lots from 4 to 2 and will not be constructing the new road. Commissioner Roosa knew the property and was in agreement.

2:43 PM: Ken Stephens had a family transfer approved in April but has not been able to file the COS and would like a two month extension to file his COS in March of 2010. Commissioner Berget moved to approve the two month extension and it carried.

2:55 PM: **Refuse Discussion**: Kathi Hooper and Ray Miller have come to talk to the Commissioners to discuss the gatekeepers at the landfill. Kathi said the piles are cleaner since the gatekeeper. People seem to be more aware of the different places the mixed refuse should be disposed of. Commissioner Berget talked about all the complaints he has been receiving. People are complaining that their refuse fees went up on their taxes and now they are being charged for dumping. Commissioner Roosa asked if the revenue has changed. Kathi said that the revenue has increased. They are requesting that the gatekeeper position be made permanent. They would keep it as two part time positions through the summer. Commissioner Roosa moved to approve the gatekeeper position as two part time positions as Kathi sees fit. Commissioner Berget seconded with discussion that Ray is sure the public is taken into consideration with each load and the gatekeeper is flexible. Kathi and Ray have not had many complaints and asked that they be made aware of the ones the Commissioners are receiving.

3:30 PM: **Administrative Issues**: Bill talked to the Commissioners about the gravel bids. He did a spreadsheet to show the Commissioners the difference in bids. Commissioner Berget moved to approve the low bidder on each of the gravel bids for each city. The gravel crushing bids are awarded to Keller for Liberty, Wards for Troy, and Kootenai Sand and Gravel for Eureka. The motion carried.

X 3:41 PM: The Commissioners discussed personnel issues. ?

3:58 PM: **Eureka Rural Development Partners** wish to change the original change of the scope of work for the \$5,000 for bio-mass grant from DNRC. They are changing the recipient of \$1,375 to Camas Creek Enterprises for a biomass heating study.

4:03 PM: The Trego Fortine Stryker Fire Service Area wishes to increase their fees by 100% to \$50 per year. They are asking to begin the process. Commissioner Roosa will inform them that the process can begin during the budget approval process in September.

4:27 PM: The Commissioners went over their summer schedules with Bill Bischoff.

4:30 PM: The meeting was adjourned.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Commissioner John Konzan, Chairman

ATTEST

Tammy D. Lauer, Clerk of the Board

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July 8, 2009

The Lincoln County Board of Commissioners met for a regular session on July 8, 2009 in the Lincoln County Courthouse. Present were Commissioner John Konzen, Commissioner Makenna Rouse, Commissioner Tony Berget, Executive Assistant Bill Bischoff and Deputy Clerk of the Board Jill Blomdahl.

10:00 AM: Commissioner Konzen opened the meeting with the Pledge of Allegiance.

10:01 AM: EPA Update: Present are Ted Linnert, Rebecca Thomas, Mike Cnaan, Dick Sloan, Victor Kestelepper, Catherine LeCours, Kathi Hooper, Brad Fuqua, D.C. Orr, and Judy Williams. On the phone are Kirby from Senator Baucus' office, Larry Anderson from Congressman Rehberg's office and Virginia from Senator Tester's office. Commissioner Konzen begins by explaining the handout to everyone. The handout is mostly questions gathered from CARD and TAG meetings that the Commissioners would like to have the EPA take a look at and get back to them with the answers. Mike states 35 properties in Troy have been cleaned-up so far. To date, 1,136 properties have been cleaned in Lincoln County. Virginia thanked the EPA for putting the Sanger Welding site at the top of the list for cleanup. Commissioner Konzen also expressed his appreciation to their quick action. Victor spoke to MIT and they are very excited to start communications regarding the class to sit in Lincoln County. Rebecca spoke about the clean-ups on commercial properties. EPA Administrator, Lisa Jackson, is planning a visit to Lincoln County but a date has not been set. Ted stated that CAG will have 3 meetings to formulate guidelines and prepare a mission statement and is hoping the EPA Administrator will be able to attend one of the meetings.

11:00 AM: Fish, Wildlife and Parks: Present are Kim Annis, Wayne Kasworm, Kathi Hooper, Ray Anderson and Brent Strum. Lincoln County is receiving grant money in September to fence and enclose dump sites and need to have a site in mind to use for the money. The Savage Lake site is the priority with the Revest/Bull Lake Road site being second. There was a discussion about making the public responsible for closing gates at the dump sites, various other sites for the green boxes and getting grant money to help pay for gatekeepers at the dump sites.

11:44 AM: The Commissioners read the Interlocal Agreement between the City of Libby and Lincoln County. Commissioner Rouse moved to approve the agreement and it carried. The agreement was signed by Chairman Konzen. The Commissioners read Resolution Number 628 which is an ordinance of the County of Lincoln approving the Interlocal Agreement between the City of Libby, Additional Cities in Lincoln County, and Lincoln County creating a City-County Board of Health named, the City-County Board of Health for Lincoln County. Commissioner Rouse moved to approve the resolution and it carried. The resolution was signed by all the Commissioners.

1:30 PM: Subdivision Review: Kristin Smith and Lisa Osoewald

1:32 PM: Riverdale Am. lots 3 & 4 9 lots, preliminary plat decision. Present are Tim and Dianna Rooney and Byron Sanderson. Lisa reminded the Commissioners of the subdivision presented last week. Commissioner Berget moved to approve the subdivision as preliminary plat according to Planning Staff recommendations and adding the new condition regarding the 5<sup>th</sup> Street Extension deceleration lane and it carried.

1:44 PM: Sunset Ranch, 16 lots, preliminary plat decision. Lisa reminded the Commissioners of the subdivision presented last week. Questions regarding the vegetation next to the road were answered by the Planning Staff. Commissioner Rouse moved to approve the subdivision as preliminary plat according to Planning Staff recommendations and it carried.

1:54 PM: Bear Hollow, Am. Lot 2 of Deanna Tract No. 2, 4 lots, final plat decision. All conditions have been met. Commissioner Rouse moved to approve the final plat and it carried.

2:01 PM: Charland Lakeshore Violation - Elk Tracts, lot 4. Kristin and Lisa showed the Commissioners pictures taken from three different vantage points this year. There is obvious destruction of the wetlands and standing water next to and on the unapproved road that ends at Bull Lake. When Lisa was at the sight on July 7, there was water and bubbles coming up through the road. The Commissioners agree the landowner is in violation and would like the Planning Staff to draft a letter for the Commissioners to review and inform the landowner of the violation.

2:11 PM: The Planning Staff discussed various issues with the Commissioners.

3:00 PM: The Commissioners discussed personnel issues.

4:15 PM: The meeting was adjourned.

#### LINCOLN COUNTY BOARD OF COMMISSIONERS

John Konzen, Chairman

ATTEST

Jill Blomdahl, Deputy Clerk of the Board

Leigh Riggleman

From: Mike Sehestedt [msehestedt@mtcounties.org]  
Sent: Thursday, July 16, 2009 8:48 AM  
To: John Konzen; Leigh Riggleman  
Subject: Lincoln County Non-Partisan Elections

Assuming that you can meet your time lines for adoption of the ordinance prior to the election and all of the city/town elections will be by mail ballot on the election day, then I think that you are good to go with the proposal to submit the question of non-partisan elections to the voters this November.

*Michael W. Sehestedt*  
Chief Counsel  
Montana Association of Counties  
2717 Skyway Drive Suite F  
Helena, MT 59602  
Phone (406) 441-5472  
Fax (406) 441-5497

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7/16/2009

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August 5, 2009

The Lincoln County Commissioners met for a regular session on August 5, 2009. Present are Commissioner John Konzen, Commissioner Marianne Roese, Commissioner Tony Berget, Executive Assistant Bill Bischoff and Clerk and Recorder Tammy Lauer.

9:58 AM: Commissioner Konzen opened the meeting with the Pledge of Allegiance.

10:00 AM: **Election Administration Department:** Tammy Lauer, Election Administrator and Leigh Riggelman, Assistant Election Administrator presented the Commissioners with Resolution number 830 for an Ordinance Calling for a Ballot Issue on Non-Partisan Elections. Tammy read the resolution and gave a brief summary of the reason for the request and the history on the issue. The Public commented and responded to the issue. Commissioner Roese moved to sign Resolution Number 830 to keep the process moving. Commissioner Konzen seconded the motion and it carried with Commissioner Konzen and Commissioner Roese voting for and Commissioner Berget voting against. There will be another public reading on August 19, 2009 in Eureka.

Notes on  
Public  
Comments?

# 830  
Vote results?  
list of # of  
attendees?

10:40 AM: **Noel Williams:** Noel discussed his contract with the Commissioners. His contract has expired and he is hoping to renew it at the same terms. The Commissioners all voiced their approval of Noel's performance in his work on land issues with the forest and Fish and Game for the County. Commissioner Berget moved to approve Noel's contract for the upcoming year and it carried.

11:30 AM: **Phone Conference:** Closed meeting with Attorney Sean Gorkochea on a personnel issue.

11:45 AM: Commissioner Roese moved to approve the minutes for all of the month of July. The minutes have been approved but failed to be voted on. The motion carried.

1:30 PM: **Subdivision Review:** Kristin Smith and Lisa Odewaldt.

1:30 PM: **Lakeshore Permit:** Dave Chambers on Glen Lake would like to build a dock on his property. Lisa showed diagrams of the dock and property. The Commissioners will vote on this next week.

1:31 PM: **Lakeshore Permit:** Dave Warwick on Bull Lake would like to build a dock on his property. Lisa showed pictures of the property and gave a description of the dock. The commissioners will vote next week.

1:33 PM: **Release letter of Credit:** Eureka Hills Subdivision has been completed and so the letter of credit needs to be released. Commissioner Roese moved to approve the release of the letter of credit and it carried.

1:37 PM: **Little O'Brien Subdivision:** This subdivision was approved last week and Commissioner Konzen signed it.

1:39 PM: The Commissioners discussed the subdivision discussed last week that will come up next week.

1:48 PM: Kristin and Lisa talked about recent seminars and classes they have attended recently.

2:11 PM: **Review Proposals for Project Manager for the HRSA Grant:** KaiEllen Bucher of Kalispell Montana was the only applicant. The Commissioners will give her proposal to other concerned parties and get their feedback.

3:30 PM: **Elected Officials Salary Committee (EOSC) Meeting:** Committee members present are the three Commissioners, Nancy Trotter Higgins, Daryl Anderson, Bonnie Larson, Terry Crooks, Steve Newman, Jeff Gruber, Tammy Lauer and Darren Caldwell. The Salary committee discussed concerns about increases in wages. Bonnie Larson moved to approve a \$0.1 an hour raise for county elected officials in order to allow the sheriff's deputies to resign their longevity. There was a discussion about the longevity for the county elected officials as they currently get 1%. Nancy Sutton Higgins moved to forgo the longevity for elected officials. It was pointed out that the longevity was created to compensate the elected officials for benefits that they are not entitled to as elected. Steve Newman seconded the motion and the motion failed 5 for and 6 against. The Commissioners will take the recommendation under consideration and vote on it next week.

4:25 PM: The meeting was adjourned.

LINCOLN COUNTY BOARD OF COMMISSIONERS

John Konzen, Chairman

ATTEST

Tammy D. Lauer, Clerk of the Board

RESOLUTION No. 830

ORDINANCE CALLING FOR A BALOT ISSUE ON NON-PARTISAN ELECTIONS

WHEREAS, many voters in Lincoln County have expressed their desire to have local county elections conducted as non-partisan; and

WHEREAS, non-partisan elections require an alteration of our existing form of county government; and

WHEREAS, alterations of our existing form of county government require the approval by the electors of Lincoln County; now

THEREFORE BE IT RESOLVED by the Board of Commissioners of Lincoln County that the Election Administrator of Lincoln County shall hold a Special Election by mail to be held on November 3, 2009 a ballot issue allowing the electors of Lincoln County to approve or reject non-partisan elections for Lincoln County elected officials. The ballot shall be submitted in substantially the following form:

- ☐ FOR adoption of the amendment to Lincoln County's current form of government requiring non-partisan elections (no political party identification for Lincoln County elected officials) effective November 15, 2009.
- ☐ FOR retaining the existing form of government requiring partisan elections (political party identification for Lincoln County elected officials).

This ordinance shall become effective 30 days after the second reading and final adoption.

Done in session this 5<sup>th</sup> day of August, 2009. Second Reading to be held August 19, 2009.

LINCOLN COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
John C. Konzen, Chairman

\_\_\_\_\_  
Marianne B. Roose, Member

\_\_\_\_\_  
Anthony J. Berget, Member

Attest: \_\_\_\_\_  
Tammy D. Lauer, Clerk of the Board

# 830  
signed  
with  
this 5<sup>th</sup> Oct  
on a  
different  
matter

no signed  
copy  
found

## NOTICE TO VOTERS

The Lincoln County Commissioners will hold a public meeting on a ballot issue to be put forth to the Voters of Lincoln County. This ballot issue addresses allowing all County Government Elected Officials to be voted on without party designation.

Reading on ordinance and the opportunity for public comment will be held on: August 5, 2009 at the Lincoln County Courthouse, 512 California Avenue, Libby, MT in the Commissioner's office at 10:00 a.m.

AND

August 19, 2009 at the North Lincoln County Annex, 66121 MT Highway 37, Eureka, MT in the Conference Room at 10:00 a.m.

Kootenai Valley Record: the weeks of July 20 and June 27  
Tobacco Valley News: the weeks of August 3 and August 10

August 12, 2009

The Lincoln County Board of Commissioners met for a regular session on August 12, 2009 in the Lincoln County Courthouse. Present were Commissioner John Konzen, Commissioner Marianne Roose, Commissioner Tony Berget, Executive Assistant Bill Bischoff and Clerk and Recorder Tammy Lauer.

9:00 AM: Commissioner Konzen opened the meeting with the Pledge of Allegiance.

9:01 AM: **Forest Service Update:** Paul Bradford and Paul Stantus are present. Paul announced that 16 million in stimulus money is coming to the Kootenai National Forest. Stimulus projects are in the planning stages. Paul Stantus went over some of the plans for the stimulus funds. Paul Bradford talked about the Forest Plan and the timeline for it. They talked about the Idaho Panhandle National Forest working with the Kootenai National Forest. Paul talked about litigation that the Forest Service is currently involved in concerning the Yaak. Fire Season has been very good so far. There have been many starts but the helicopter has been right on them. The Forest Service people from Libby have been trained to get out of the helicopter down to the fire area. The BPA rebuild on the line is going well.

10:00 AM: **EPA update:** Ted Linnert, DC Orr, Gordon Sullivan, Candia Harbaugh, Kathryn LeCours, Kalhi Hooper, Brent Shrum and Rebecca Thomas. EPA Director Victor Kelleher is on the phone. Ted began by announcing that September 16<sup>th</sup> will be a meeting on the mine site. There will be an OU1 and OU2 meeting September 23, 2009. The Commissioners will not be here that week so they rescheduled for the 28<sup>th</sup> in the evening. Ted said that the new toxicologist is on board. Rebecca said that a contractor did an on-site tour at OUS yesterday. There is a tentative plan for a December ROD for OUS. Victor said that they have cleaned up 72 properties this year. The golf course work should start in 2 to 3 weeks. The work on the creeks will be done in the next 3 weeks. He said that EPA is responding to the questions presented to them by the Health Board and hopes to have answers next month. They would like to schedule September's meeting for the 16<sup>th</sup> in Eureka at 11:00am. There is a house around Warland Creek that has caved in and is full of vermiculite. Neighbors are concerned. They are planning on working on that house soon. Kathryn talked about OU7 which is in Troy. She plans to have a work plan out next week. She and Commissioner Konzen talked about how they choose the properties for clean up. The group talked about the tests at the mine site and rumors that are being circulated. DC talked about the ERS central maintenance. Rebecca commented on that. There was some vermiculite found on the Slinger Welding site yesterday but it was all cleaned up by 5:30 that day.

10:47 AM: The commissioners read the minutes of the August 5, 2009 meeting. Commissioner Berget moved to approve the minutes as written and it carried.

11:00 AM: **4-H delegation:** Three young people from Eureka Marissa Hepner, Ben Hupner and Tristan Benson came to talk about the 4-H at the County fair. Marissa explained what 4-H is. They read a speech about the 4H ambassadors. They invited the County Commissioners to the County Fair. The Commissioners praised the three young people on their participation in 4-H and their future outlook.

11:05 AM: **Rae Lynn Hays** came to talk to the Commissioners about the County Van that she drives. Her current van is unsafe and needs replaced. She shopped the Libby dealers and received some quotes for different vehicles. The Commissioners told her to shop for something in the \$10,000 area. She will look some more this afternoon.

11:25 AM: **Tim Orthmayer with Morrison Malerle, Inc:** Tim brought more information about the airport grants. Tim brought some papers for Commissioner Konzen to sign on the projects for Eureka and Libby Airports.

1:30 PM: **Subdivision Review:** Kristin Smith and Lisa Oedewald

1:31 PM: **Chambers Lakeshore Permit:** This Glen Lake dock was discussed last week. Commissioner Roose went to the site to view the proposed dock and found the dock to be in place already. Commissioner Roose moved to send a letter to Mr. Chambers saying that his dock is in violation of the permit process and needs to be removed. The issue will be turned over to the County Attorney. The lakeshore permit is denied at this time for lack of process. The motion carried.

1:31 PM: **Warwick Lakeshore Permit:** This Bull Lake Dock was discussed last week. Commissioner Roose moved to approve the Lakeshore permit and it carried.

1:36 PM: **Lisa** presented the Commissioners with a letter from the Bull Lake Fire District requesting annexation by Pleasant View Subdivision. Those requests go through the Clerk and Recorder's office so the request will be passed on to them.

1:40 PM: Kristin gave an update on THVDavis project.

2:13 PM: Kristin talked about the **Planning Board meeting**. They all talked about the Subdivision Regulations group and their progress.

2:33 PM: Commissioner Roose asked the Commissioners to consider the power issue at the fairgrounds. Lincoln Electric has offered to do an upgrade on the power at a discount but even then it is very expensive. Commissioner Roose

No mention  
of  
Resolution  
# 830  
or upcoming  
meeting in  
Eureka on  
Aug 19<sup>th</sup>

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moved to approve the payment of the costs of the electrical update to the fairgrounds as presented out of PILT and it carried.

2:49 PM: Mike Justus is working on stimulus funds for trees and shrubs for public lands. Currently they are looking at the ball fields and the annex building river walk and fairgrounds. They are requesting that the County sponsor the request which will be at no cost to the County. Commissioner Roose moved to approve the County as sponsor for the grant and it carried.

3:00 PM: **Salary decision.** The Commissioners need to decide on the salary that was recommended by the Salary Committee. Commissioner Berget moved to approve the one cent per hour raise for elected officials. Commissioner Roose seconded and it carried. Commissioner Berget moved to suspend the one per cent longevity and there was no second. The motion died for lack of a second. The Commissioners discussed raises for the employees. They talked about the state of the economy of the County. Commissioner Berget moved to approve a 2% increase for the employees' earnings. The motion carried. Commissioner Roose moved to make the raises retroactive to July 1, 2009 and it carried.

3:21 PM: Bill presented the Commissioners with the figures for the Secured Rural Schools Funds for the current fiscal year. Commissioner Berget moved to allocate 15% to RAC. This would allow to \$800,000 to Title II and the remainder to Title III. Commissioner Roose seconded and it carried.

3:30 PM: The Commissioners reviewed the contract for the Auditor for the upcoming year. Commissioner Roose moved to approve a one year contract with **Dinning and Downey** and it carried.

3:36 PM: The meeting was adjourned.

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
John Konzen, Chairman

ATTEST: \_\_\_\_\_  
Tammy D. Lauer, Clerk of the Board

August 26, 2009

The Lincoln County Board of Commissioners met for a regular session on August 26, 2009, in the Lincoln County Courthouse. Present were Commissioner John Konzen, Commissioner Marianne Roose, Commissioner Tony Berget, Executive Assistant Bill Biehoff and Clerk and Recorder Tammy Lauer.

9:00 AM: Commissioner Konzen opened the meeting with the Pledge of Allegiance.

9:01 AM: **Slinger Welding:** Paul Rumlhart, Carl Douglas, Amy Guth and Tony Palodino. Slinger Welding presented a Ground and Facility Lease with Option to Purchase between Kootenai Business Park Industrial District and Slinger Welding, Inc. Commissioner Berget moved to approve the agreement for the Kootenai Business Park and it carried. An Amendment to the Development Agreement was also signed.

9:30 AM: **County Attorney Bernard Cassidy:** Bernie is requesting a full time employee to replace a part time employee he no longer has. The Commissioners discussed the issue with Bernie and agreed to allow him to hire a full time employee.

10:00 AM: **Nancy Higgins, Treasurer:** Nancy pointed out several tax amounts for mobile homes that had very small discrepancies and asked that they be forgiven. Commissioner Berget moved to do this on the recommendation of the Treasurer and it carried. Then Nancy presented the Commissioners with a list of Mobile Home taxes that need to be deleted due to the mobile being destroyed or moved out of the County. Commissioner Berget moved to delete the mobile home taxes on the list at the recommendation of the Treasurer and it carried. Nancy showed the Commissioners a list of Mobile Home Taxes five years or more delinquent. She has gone through the processes and feels that the County will never collect these taxes. The Commissioners would like to see an effort to get rid of the mobiles that are delinquent and are destroyed but not moved. Nancy showed a list of Personal Property Taxes that are delinquent. Commissioner Berget moved to approve deleting the delinquent personal property taxes under \$500 for the years of 2000 through 2005. Commissioner Konzen would like to see an effort made to collect the personal property taxes from 2006 to present. Commissioner Berget moved to have Nancy act on the personal property taxes as discussed and it carried.

11:00 AM: **Administrative Issues:** The Commissioners discussed the rent that WIC pays at the Eureka Annex. They also discussed a letter from Tobacco Valley Industrial District.

1:00 PM: **Lil Dupree, Development Officer for the Community Action Partnership of Northwest Montana:** She brought the bi-annual work plan for the community service block grant. She gave the Commissioners a printout showing the projects that are ongoing with the HRDC. Commissioner Roose moved to approve the 2010 and 2011 contract with Community Action Partnership and it carried. The Commissioners signed a letter of approval for the emergency housing plan as well.

1:36 PM: **Subdivision Review:** Kristin Smith

1:37 PM: **Amended Lot 2 of Minor Subdivision, final plat:** All conditions have been met. Commissioner Berget moved to approve the final plat and it carried.

1:39 PM: **Amended Lot 11, Airpark Village Subdivision, final plat:** All conditions have been met. Commissioner Berget moved to approve the final plat and it carried.

1:44 PM: There was a discussion about the homeowners association for the Sleeping Bear Subdivision. Kristin presented her findings to the Commissioners. She wants to remove condition #4 and replace with new condition. Commissioner Berget moved to approve the condition amendment for Sleeping Bear Subdivision. Commissioner Roose seconded and voted for it with Commissioner Berget. Commissioner Konzen voted against. The motion carried.

2:14 PM: There was a discussion about the Chambers dock on Glen Lake. It was decided that the planning department write Mr. Chambers a letter stating that he was out of compliance but they will let it go.

2:54 PM: The Commissioners read the minutes of the August 12, 2009 meeting. Commissioner Roose moved to approve the minutes as corrected and it carried.

2:53 PM: **Troy Project:** Wayne Hirst, Robin King, Kurt Rayson, Noel Williams and Brent Shrum are present. Wayne brought a copy of his observations of Senator Tester's Forest Jobs and Recreation Act. Wayne talked about all of the meetings and discussions he has had since the bill was introduced. The group discussed the bill and the opinions surrounding it.

3:48 PM: The meeting was adjourned.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Commissioner John Konzen, Chairman

ATTEST:  
Tammy D. Lauer, Clerk of the Board

*No reference  
to Aug. 19th  
meeting in  
Eureka*

September 2, 2009

The Lincoln County Commissioners met for a regular session on September 2, 2009 in the Lincoln County Courthouse. Present were Commissioner John Konzen, Commissioner Marianna Roose, Commissioner Tony Berget, Executive Assistant Bill Bischoff and Clerk and Recorder Tammy Lauer.

9:00 AM: Commissioner Konzen called the meeting to order with the Pledge of Allegiance.

9:00 AM: **Paul Bradford, Kootenai National Forest.** Paul told the Commissioners that the Forest Service has over 700 nominations for RAC Committee Members. Each has to have a background check and that is why it is taking so long. Paul knows it is frustrating but they have to go through the process. There was a discussion about fires in the Kootenai Forest. We have nearly made it through that fire season with no major fire. Paul brought copies of a speech made by the Dept of Agriculture in DC and went through the parts he felt were positive for our forest.

10:00 AM: **Randy Bock.** Present are Libby road supervisor Marc McCully, and Eureka Road Supervisor Tim White. Randy is hoping to put two cattle guards on a road 6 miles up McGinnis Meadows where he is buying a piece of land from Plum Creek. Commissioner Roose told that the County does not like cattle guards as they are a liability for the road departments because they make it difficult to plow the roads. Commissioner Konzen explained the process and the reasoning for the concern. He said that the issue should be researched and they will make a decision at a later meeting. Randy mentioned that he ask about this several weeks ago and it is only now being addressed. Commissioner Konzen said that they will look at it and will turn it over to the County attorney and ask for a quick response.

10:18 AM: **Marc McCully** spoke to the Commissioners about a personnel issue. The mechanic for the road department is working on all County vehicles and unable to help the road crew. Commissioner Konzen said that he is aware of the problem and he would not be opposed to having the road department hire a new person and make the mechanic a stand alone position. This process will take effect during the budget process.

10:45 AM: The Commissioners read the minutes of the August 26, 2009 meeting. Commissioner Berget moved to approve the minutes as corrected and it carried.

1:30 PM: **Subdivision Review:** Lisa Odewaldt and Kristin Smith

1:30 PM: **Kessler-Hodgson Subdivision, 2 lots, Preliminary Plat Review:** Lisa presented the subdivision and conditions. Byron Sanderson spoke to the Commissioners about the conditions. He talked about the 25 foot "no build zone" by the riparian zone. The owner is concerned that the resale will be more difficult if a new buyer is not allowed to build a stable for horses or a fence. Byron would like to see the "no build zone" be more specific to a house or cabin rather than no building at all. He would also like to see the road issue change. He feels that the driving surface is too much for 2 landowner usage. Ms. Kessler-Hodgson spoke about her motivation for the subdivision and why she is concerned about the conditions. It was decided that Commissioner Roose will contact the fire department and go to the property and they will discuss the turnaround issue. This will be decided next Wednesday.

2:12 PM: **Chambers Lakeshore Permit:** The Commissioners signed a Lakeshore permit on a dock that was discussed twice last month.

2:14 PM: **Sleeping Bear Homesites:** This subdivision has a road issue that the developer and surveyor want to discuss. The Developer wasn't here to apply for a variance on the road regulations. He stated that page 29 says that on a primary road the grade cannot be more than 10% and later on that same page is says 8%. He pointed out other inconsistencies in the regulations. He feels that there is no need for a variance because of the sketchy regulations. Mark from APEC spoke about it as well. Commissioner Konzen and Commissioner Roose both voiced their concerns over a variance approval because historically they have been a problem for future subdivisions.

2:58 PM: Kristin asked the Commissioners to read a letter to The County Attorney and Mr. Finch concerning the Moonshine Subdivision variance. The Commissioners read the letter and approved the content.

3:16 PM: Shane Baker has agreed to be reappointed to the Eureka Dispatch Board. Commissioner Roose moved to reappoint Shane and it carried.

3:26 PM: **Montana Economic Development Association** has requested that the Commissioners help sponsor the MEDIA conference in the amount of \$1500. Commissioner Berget moved to approve \$1,500 from Hard Rock Mines Economic Development funds and it carried.

3:33 PM: **Tammy Lauer, Election Administrator,** addressed the new minimum wage for the election judges. Currently the base wage for an election judge is \$6.75 which was minimum wage at the last election. The current minimum wage is \$7.25 per hour and so she is requesting that election judges wages be raised to \$7.25, and \$8 and \$9 for chief judges. Commissioner Berget moved to approve the wage increases for election judges and it carried.

*Still no reference  
to Aug 19th  
meeting*

23

3:34 PM: The Bull Lake Volunteer Fire Department wrote a letter to the Commissioners requesting that Myron Colson be appointed to the board to fill a vacancy left by Harry Pearson. Commissioner Berget moved to approve the appointment of Myron Colson to the Fire Department Board and it carried.

3:36 PM: There was a motion by Commissioner Roose to extend the Preliminary plat time frame for the Kootenai Business Park and it carried.

3:37 PM: The meeting was adjourned.

LINCOLN COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Commissioner John Kenzan, Chairman

ATTEST \_\_\_\_\_  
Tammy D. Lauer, Clerk of the Board

24



September 30, 2009

The Lincoln County Board of Commissioners met for a regular session on September 30, 2009 in the Lincoln County Courthouse. Present were Commissioner John Konzen, Commissioner Monanna Rose, Executive Assistant Bill Bischoff and Clerk and Recorder Tammy Lauer. Commissioner Terry Berget is on vacation.

10:00 AM. Commissioner Konzen opened the meeting with the Pledge of Allegiance.

10:01 AM. Cell Phone Tower by Middle Thompson: Several people that live in the area of Middle Thompson came to talk to the Commissioners about a proposed Cell Phone tower on private property. Ed LeBuddle gave a history of the pursuit of the cell phone tower in the Happy's Inn area, a five year struggle. The homeowners don't want a tower close to the lake. Plum Creek has offered to donate property for the tower. Dolly Madison Purdy spoke about the location of the tower and the area around it. She brought several pictures to show. The homeowners cannot get verification of the tower other than hearsay. Commissioner Konzen and Commissioner Rose said that they have no jurisdiction over this but they can make some calls on behalf of the homeowners and see if they can get some real information.

10:42 AM. Vic White, EMA update: Vic talked about repeater sites that are being discussed in Havre. They feel that two sites will tie up by the first of the year. Lincoln County is the last site to be completed. Motorola wants to be paid before the testing is done. Vic did not feel that was warranted. Commissioner Konzen said they could pay them some when the equipment is installed and hold the rest back until the testing is done.

11:20 AM. Nigel with Morrison Maleris: Airport Grants. Nigel obtained signatures from Commissioner Konzen on the airport grants.

11:29 AM. Tammy Lauer spoke to the Commissioners about some budget issues.

*did this include making ballots?*

1:30 PM. Subdivision Review: Lisa Oedewald

1:30 PM. Comstock Meadows Subdivision, 4 commercial lots, Final Plat Approval: They have bonded for the road at 125%, \$72,880. All other conditions have been met. Commissioner Rose moved to approve the final plat and it carried.

1:33 PM. Kessler-Hodgson Subdivision, 2 lots, final plat approval: All conditions have been met. Commissioner Rose moved to approve the final plat and it carried.

1:35 PM. Wapiti Estates, 6 lots, final plat approval: This subdivision began in 2006. There were no conditions on this subdivision. Commissioner Rose moved to approve the final plat and it carried.

1:36 PM. Lakeshore Permit: Buford Falls has property on Bull Lake. The home has been destroyed by EPA and he is rebuilding and wishes to put in a rock retaining wall.

1:37 PM. Indian Springs Subdivision developers are requesting that their bond be reduced. Lisa explained that the reduction follows the plan. Commissioner Rose moved to approve the bond reduction and it carried.

1:38 PM. Land use change for a property that has a house and a shop and they wish to remodel the shop to be a mother-in-law quarters. Lisa has consulted with Kendra and they feel that if DEQ has approved it they can simply change the land use to 2 single families by signing a form. Commissioner Konzen would like to wait and speak with Kristin and Kendra about the criteria for the form.

2:50 PM. KaiEllen Bucher conference call. The commissioners called KaiEllen at her request to discuss some issues with the asbestos healthcare funds. She needs to be on the agenda for 2:30 Wednesday, the 7<sup>th</sup> of October to get a vote on the issues.

3:30 PM. Charles Evans, Attorney. Chuck wanted to talk to the Commissioners about the cattle guard issue on the McGinnis Meadows Ranch. Commissioner Konzen said that he feels he is open to the discussion of it but Commissioner Berget is not here and Commissioner Rose disagrees. Commissioner Konzen suggested that it be put on the agenda for next week.

3:55 PM. Administrative Issues. Bill discussed some personnel issues with the Commissioners. Bill also went over some scheduling with the Commissioners.

4:17 PM. The meeting was adjourned.

LINCOLN COUNTY COMMISSIONERS

John Konzen, Chairman

ATTEST:  
Tammy D. Lauer, Clerk of the Board

25

October 7, 2009

The Lincoln County Board of Commissioners met for a regular session on October 7, 2009 in the Lincoln County Courthouse. Present were Commissioner Konzen, Commissioner Roose, Commissioner Berget, Executive Assistant Bill Bischoff and Clerk and Recorder Tammy Lauer.

9:00 AM Commissioner Konzen opened the meeting with the Pledge of Allegiance.

9:01 AM Kootenai National Forest Update. Present are Cami Winslow, Paul Stanlus, Quinn Carver, Noel Williams and Brad Fuqua. Paul talked about the stimulus projects that are beginning to develop now. Bids are coming in and being accepted. Paul mentioned that some projects were not bid at all. Cami talked about the RAC projects. Quinn talked about ongoing litigation. Paul said that the Motor Vehicle use map is complete and takes effect January 1, 2010. Commissioner Konzen talked about a meeting with Tester on Saturday and what will be discussed.

10:00 AM Planning Board. Joe Kelly talked about a letter the Planning Board wrote to the Commissioners. They were confused about the liaison with the forest service. They were under the impression that Ted Anderson would be the liaison with the forest service but were told that Noel Williams has been hired by the County. Commissioner Konzen explained that Noel has worked for the County for 5 years as a contract employee dealing with the Forest Service and any forest issues. Commissioner Konzen stated that when a coordinating and cooperative status is developed with the Forest Service then the County will have the right to go to the planning meetings of the Forest Service. This is when he sees Ted coming in to the picture. Commissioner Roose clarified that Ted would not represent the County but would gather information for the County pertaining to the Growth Policy. Chas explained the roles of both men in the cooperating status. Ted would go to meetings and Noel would help the Commissioners communicate about those meetings with the Forest Service. Noel explained his role in the Mineral County natural resource plan to show how this would work in Lincoln County. Commissioner Konzen said that the Forest Service has the right to reject anyone from sitting in the planning meetings because the coordinating status is not in effect yet. There are five districts in the County and it's nearly impossible to be a part of all meetings, a person would need to be selective about what issues will really impact the County and attend those meetings. Joe Kelly said that over the last three years the Planning Board has developed a Forest Revitalization Plan. They were told that Chas's group was developing their own and then they would give it to the Planning Board to incorporate into the Growth Policy with their own. Chas stated that the group just wants the Planning Board to choose some vital topics and then they will move forward. There was a discussion about the expectations for the cooperating status. Communication will be the key to this working for the future.

11:15 AM Administrative Issues. The Commissioners discussed some personnel issues.

11:30 AM Chuck Evans, Attorney. Present is Marc McCully, Libby Road Supervisor. Charles is here in regard to cattle guards in the McGinnis Meadows area that was discussed last week. Marc expressed his concern over the cattle guard and the County having to maintain it. Chuck said that the cattle guard would be installed very well and his client would bring it to standards that will not affect the County road maintenance. Marc said that the snow plowing issue is the biggest issue. Commissioner Roose said that the landowners need to incur the costs of doing business, including the costs of fencing the property. Commissioner Berget said that he is unsure if it is open range or not so that needs to be clarified. Also, he thinks they need to decide what would be the criteria for the cattle guards. The Commissioners decided to postpone a decision until there is more clarification.

1:30 PM Subdivision Review. Kristin Smith and Lisa Oedewaldt.

1:31 PM McGinnis Creek Flats IV, 6 lots, W1/2 Sec 5, T26N R28W, Public Hearing. Present are Russ Barnes, Craig Munro and Ken Davis. Lisa presented the subdivision. Craig Munro stated that the owner is not Debra Munro but Real Property LLC which is owned by Paul Tisher, Paul Brown, Matthew Munro and Craig and Debra Munro. Lisa presented the recommended conditions of approval. On the road issue, Craig said that the road approach has been permitted by Marc McCully, Libby Road Foreman, and he will provide documentation of this at final plat. Commissioner Berget asked about the 100' stream protection zone. Craig talked about the treatment of the dead and downed debris, most of this has been cleared now. He questioned the reasons for the 50' requirement as opposed to making the property fully tiered. Ken asked why the floodplain needs to be determined and delineated on the face of the plat. He felt this would cost approximately \$10,000 and doesn't understand why the FEMA map won't work. Lisa explained that the FEMA map shows the floodplain as an "approximate A" and the line has not been determined. Ken doesn't know why there is a change in the requirements stating that "Lincoln County has always approved the floodplains on FEMA maps." He is confused why DNRC has any say on this issue. Russ asked where the requirement is coming from. Kristin answered the concerns with the subdivision regulations. Russ asked if every County in Montana requires this. Kristin said no, that some counties require more and some less. Russ wondered if any law backs this up. There was a discussion on Floodplains and exceptions. There was a discussion about changes in subdivision approvals by Russ and Craig and their frustrations in knowing why the changes are taking place without legislation. They have both been in real estate for over 20 years and they see the subdivisions getting harder and harder to get through the channels. Kristin and Lisa explained that the regulations have not changed, but that historical application of the regulations was lax. There was a question about the covenants requirement that was cleared up right away. Lisa stated that that condition had been modified by the Planning Board, which clarified Mr. Munro's concern. The public hearing was closed.

2:18 PM Dry Creek Subdivision, 3 lots, final plat approval. Conditions have been met. Commissioner Berget moved to approve the final plat and it carried.

*did this include mailing ballots?*

26

2:19 PM **Family Transfer** George and Eveline Curtis are dividing their property between their four children. The Planning staff found there to be no evasion of subdivision. Commissioner Reese moved to approve the family transfer and it carried.

2:22 PM **Lakeshore permit** Timothy Christensen on Bull Lake is requesting to move an existing structure to another location on their property. Commissioner Reese moved to approve the request due to the history of the property and the ongoing request by the County to be moved for three years. Commissioner Bergel seconded. Commissioner Konzen gave a brief history of the property and building. The motion carried.

2:27 PM **Stonehill Subdivision, 3 lots** The developer is requesting an extension of one year to due to the weather. Commissioner Bergel moved to approve the one year extension and it carried.

2:29 PM **Campbell Subdivision, 3 lots with remainder** Mr. Campbell passed away before this subdivision could be completed. Campbell's children now own the property and wish to continue with the subdivision but have lost valuable time. They are requesting a one year extension. Commissioner Reese moved to approve the extension and it carried.

2:31 PM **Lot Use Change Discussion** Kendra Lind came to add to the discussion that began last week concerning a change in use of any property. She and Lisa developed a form to use in these cases. The most current case was one where a homeowner wanted to change a shop in to a "mother-in-law cottage". The Commissioners approved the form and the procedure Kendra and Lisa presented.

2:35 PM Kristin gave a MAP (Montana Association of Planners) update. She has recently been to a conference.

2:38 PM **Amy Paris and Gary Lamby from the Mental Health Center** came to introduce themselves to the Commissioners. Commissioner Konzen gave Amy a brief history of the relationship the County has had with the Mental Health Center. Amy talked about some of her concerns so far. They discussed the past and the future and gave ideas for improvements.

3:38 PM **KaiEllen Bucher** Karol Spas and Kelly are present. The Commissioners had a conference with KaiEllen to discuss the grant funds for asbestos treatments in Lincoln County. The role of LAMP was discussed. KaiEllen explained that the Consortium's wish is for 80% of the bills to be paid. Plan B is that they would utilize the New West Network. The network is based on a fee schedule. They will not bill the patient for the balance. The fee for the network is 12% of the amount saved. Commissioner Bergel moved to approve option B for the Network Plan and it carried. KaiEllen asked if buying ensure is a duplication of services? Commissioner Konzen questioned the paying of mileage for people coming for doctor appointments. Commissioner Bergel moved to have a meeting with the pharmacists to discuss the medicines for the patients at no cost to them. Commissioner Bergel moved to approve the Durable Medical Equipment plan that the consortium recommended and it carried.

5:05 PM The Commissioners signed Resolution 830 which modifies the daily rate for incarceration by the detention facility to \$35.00. Commissioner Bergel moved to approve the resolution and it carried.

5:15 PM The meeting was adjourned.

Lincoln County Board of Commissioners

John Konzen, Chairman

ATTEST:

Tammy D. Lauer, Clerk of the Board

*Resolution 830  
already assigned  
to non-partisan/partisan  
elections 8-5-2009*

RESOLUTION NO. 830

WHEREAS, Section 46-18-403, M.C.A., states that "the daily rate for incarceration must be established annually by the board of county commissioners by resolution"; and

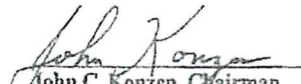
WHEREAS, the daily rate must be equal to the actual cost incurred by the detention facility; and

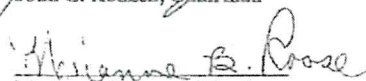
WHEREAS, it has been determined that the actual cost incurred by the detention facility on an average daily basis is Eighty five dollars and zero cents (\$85.00); now

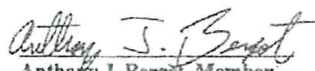
THEREFORE BE IT RESOLVED by the Lincoln County Board of Commissioners that the daily rate for confinement costs, as ordered by the court and paid in advance of confinement and prior to the payment of any fine, is hereby established at \$85.00 for each day of incarceration.

ADOPTED THIS 7<sup>TH</sup> DAY OF OCTOBER, 2009.

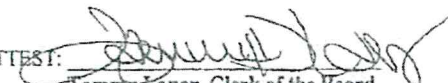
LINCOLN COUNTY BOARD OF COMMISSIONERS

  
John C. Kouzen, Chairman

  
Marianne B. Roose, Member

  
Anthony J. Berget, Member

*signed!*

ATTEST:   
Tammy Lauer, Clerk of the Board



November 10, 2009

The Lincoln County Commissioners met for a regular session on November 10, 2009 in the Lincoln County Courthouse. Present were Commissioner John Konzen, Commissioner Marianne Rose, Commissioner Tony Berget, Executive Assistant Bill Bischoff and Clerk and Recorder Tammy Lauer.

10:00 AM: Commissioner Konzen opened the meeting with the Pledge of Allegiance.

10:01 AM: **Petition for Stop Sign on Golf Course Road:** Kim Olsen, Edward Schrader, Juana Schrader, Gene Rowland, Max Smith, Jean Miller and Libby Road Foreman Marc McCully are present. Kim Olsen presented a 5 page petition from residents asking for an additional stop sign at the intersection of Shaughnessy Hill Road and Golf Course Road resulting in a 3-way stop. They feel that the people driving up the hill should have the right of way and every other street have a stop sign. Marc McCully talked to the residents about their concerns and told them why the State requested the change originally. The residents questioned when the State got their information because they have not seen any accidents at the corner between two cars but many go into the ditch. Kim has lived in the area for 15 years and has never seen an accident at the intersection. Commissioner Berget asked them to give him a little time to talk to the State and he will get back to them. Commissioner Konzen told them that Commissioner Berget and Marc will be getting with the State and then will contact Kim.

10:27 AM: The Commissioners read the minutes of the October 28, 2009 meeting. Commissioner Rose moved to approve the minutes of the October 28, 2009 meeting as written and it carried.

10:34 AM: The Commissioners have a letter from Yellowstone County to help sponsor **The Western Interstate Region Conference in Billings**. The conference is in May of 2010. Commissioner Rose moved to approve the donation of \$250 out of PILT and it carried.

10:38 AM: Commissioner Konzen signed a letter of intent for the **Economic Development District** for in-kind match of office space and utilities that was voted on at a previous meeting.

10:41 AM: Commissioner Rose spoke to Commissioner Berget and Commissioner Konzen about the progress of the **Eureka Annex building**.

10:47 AM: The Commissioners received a letter from the County Attorney asking them to join in the lawsuit Case #0V-07-140 against Donald Scott for his property that has not been cleaned up in the year that was allotted him. This property is very familiar to the Commissioners. Commissioner Rose moved to join the lawsuit and it carried.

11:00 AM: **Bid Opening for Excavator for Troy Road Department:**

Western States Equipment, Kalispell	Caterpillar	\$136,595
Rowland Machinery Company, Spokane, WA	John Deere	\$143,000
Tri State, Great Falls, MT	Volvo	\$116,956
Triple W. Machinery, Kalispell, MT	John Deere	\$135,400

Commissioner Konzen told the bidders that they will take the bids under consideration and have an answer by Friday.

11:20 AM: Tammy talked to the Commissioners about disbursement of the \$2 million from the State for Asbestos Related Diseases. The funds will need to be distributed through a checking account of some type. Tammy will check with the Auditor to confirm how it will work. Commissioner Rose moved to open a new checking account for the funds and it carried.

11:30 AM: **Bid Openings for Tandem Axle Trucks for Troy, Eureka and Libby Road Departments:**

1 State Truck Center, Missoula	Freightliner	\$91,151
Freedom Truck Center, Spokane WA	Freightliner	\$87,500
Freedom Truck Center, Spokane WA	Freightliner	\$92,850
Freedom Truck Center, Spokane WA	Western Star	\$98,945
Freedom Truck Center, Spokane WA	Western Star	\$107,925

Commissioner Berget moved to award the Freedom Truck Center the bid for the Western Star for \$98,945 based on the opinion of Foreman Marc McCully and Ron Downey and it carried.

11:45 AM: The Commissioners took a drive to the intersection discussed at 10:00 am this morning.

1:30 PM: **Subdivision Review:** Lisa Oedewaldt and Kristin Smith

1:30 PM: **Lime Creek Views**, 1 lot with remainder, final plat approval: No conditions were required on this subdivision at preliminary plat approval in February 2007. Commissioner Berget moved to approve the final plat and it carried.

1:35 PM: **Ranch View East**, 3 lots, final plat approval: All conditions have been met. Commissioner Berget moved to approve the final plat and it carried.



1:36 PM: **Ranch View West, 3 lots, final plat approval:** All conditions have been met. Commissioner Berget moved to approve the final plat and it carried.

1:37 PM: **Woodcrest, 10 lots, final plat approval:** All conditions have been met. Commissioner Berget moved to approve the final plat and it carried.

1:50 PM: **Lakeshore Permit:** William Sanguine is requesting an "L" shaped dock on Glen Lake. His property is adjacent to the Steed property, which is involved in the Casazza Dock Litigation. Mr. Sanguine is involved in the lawsuit as a Plaintiff with the Steeds. This is the 14 day notification for the lakeshore permit.

1:57 PM: Thompson Contracting had contacted planning about a dock shore permit that was done in 2007. The owners had a copy of the letter saying it was approved. The one year permit time has come and gone. Lisa will send out letters and get the process going again.

2:02 PM: Kristin spoke to the Commissioners about joint public hearings for the Subdivision Regulations. She is looking for a date to begin the public hearings. It was decided that January would be the best time to begin. The judgment came down from Judge Prezesu on the Wilson property. The county is planning to take a portion of Libby Creek Road from the Forest Service. Kristin wanted the Commissioners to be aware of the road widths. Also, signs that the Planning Department wanted to purchase are being ordered.

2:30 PM: **Ron Carter-Biomass Project Grant.** Don Cox, Brent Shrum, Lee Disney, Barbara Dutro, Ed Levier, Ron Carter made a presentation. Biomass Energy Development Inc. is requesting a Hazardous Fuels Woody Biomass Utilization Grant from USFS Forest Products Lab in Madison Wisconsin. They are here to request support from the Commissioners. He told them that one ton of wood chips = 100 Gal of Gasoline or Diesel. They have two project goals: Automate Gasifier/Engine and Refine Non-Merchandise product. He showed a diagram of the 40 KW/Ford 460 CID Biomass Cogent Unit. Commissioner Konzen agreed that there is a need for this. He said that people like Ron are needed to find alternative methods. Commissioner Berget moved to sign a letter of support for the Biomass grant and it carried.

3:30 PM: **Election Canvas:** Assistant Election Administrator Leigh Riggelman, Election Administrator Tammy Lauer, Commissioner Berget, Commissioner Konzen, and Superintendent of Schools Ron Higgins, are present. Leigh presented the election results. Ron moved to approve the canvas of the Municipal Election and County Special Election and it carried.

3:45 PM: Ron spoke to the Commissioners about the elevator in the Kootenai Senior Citizens Center in Troy. It is not working and in need of \$15,000 of repairs. Commissioner Berget suggested that they borrow the money from the County but that the payment not be due until the other loan they are paying is paid in full. Commissioner Berget moved to approve a loan of up to \$15,000 to Kootenai Senior Citizens in Troy payable in 2013 to repair the elevator. Commissioner Konzen seconded and it carried. This loan will come out of PILT.

4:01 PM: The meeting was adjourned

#### LINCOLN COUNTY COMMISSIONERS

John Konzen, Chairman

ATTEST:

Tammy D. Lauer, Clerk of the Board

36

Wrong date  
but official  
on official

39

222810 BOOK: 25 PERM/FILES PAGE: 10345 Pages: 23  
STATE OF MONTANA LINCOLN COUNTY  
RECORDED: 11/10/2009 4:20 PM PERM/FILE  
TAMMY D. LAUER, CLERK AND RECORDER  
FEE: \$0.00  
BY: [Signature]  
FILED: [Signature]

**ELECTION RETURNS**  
**MUNICIPAL ELECTION: NOVEMBER 10, 2009**  
**COUNTY OF LINCOLN, STATE OF MONTANA**

The undersigned hereby certify that the within constitutes a full, true and complete Abstract of Votes cast in Lincoln County, at an Election held November 3, 2009 for the Municipal Election held in the Lincoln County Courthouse, Lincoln County.

Attest our hands this 10th day of November, 2009.  
**APPOINTED BOARD OF COUNTY CANVASSERS**

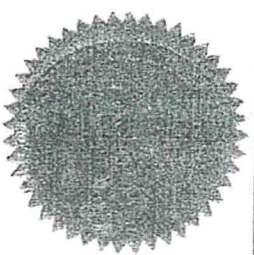
*[Handwritten signatures of the Board of County Canvassers]*

Filed in the Office of the Lincoln County Clerk & Recorder on the 10th Day of November, 2009.

Lincoln County Clerk & Recorder

I, Tammy D. Lauer, Election Administrator of said County, do hereby verify that the within constitutes a full, true and complete abstract of the number of electors voting; and a full, true and complete abstract of the number of votes cast in each precinct of said Municipal Election of Lincoln County.

Attest my hand and seal of said County, hereto affixed this 10th day of November, 2009.



*[Handwritten signature of Tammy D. Lauer]*  
Election Administrator of Lincoln County, State of Montana

# OFFICIAL SPECIAL ELECTION BALLOT

A	B	C
Lincoln County	State of Montana	November 3, 2009
<p><b>INSTRUCTIONS TO VOTERS</b></p> <p>1. <b>TO VOTE YOU MUST BLACKEN (●) THE OVAL COMPLETELY.</b> An oval blackened completely to the left of the candidate or ballot issue choice indicates a vote for the candidate or on the ballot issue.</p> <p>2. <b>USE ONLY THE MARKING DEVICE PROVIDED.</b> Your ballot will be counted by an optical scanner. <b>DO NOT</b> use any other type of marking device.</p> <p>3. <b>DO NOT CROSS OUT.</b> If you make a mistake or change your mind, exchange your ballot for a new one.</p> <p>This issue will allow electors of Lincoln County the opportunity to approve or reject non-partisan (no political party identification) elections for Lincoln County elected officials.</p> <p>This issue will create no fiscal impact.</p> <p><b>VOTE FOR ONE (1)</b></p> <p><input type="radio"/> FOR adoption of the amendment to Lincoln County's current form of government requiring non-partisan elections (no political party identification for Lincoln County elected officials) effective November 15, 2009.</p> <p><input type="radio"/> FOR retaining the existing form of government requiring partisan elections (political party identification for Lincoln County elected officials).</p> <p><b>END OF VOTING</b></p>		
PRECINCT 0001	Typ 02 Seq 0001 Str 01	Seq 0001

7 42 9 10-2503-14 © Election Systems & Software, Inc. 1981, 2002

33

Grand totals Node 2  
14:33:07 6-Nov-2009

LINCOLN COUNTY, MONTANA  
SPECIAL ELECTION  
NOVEMBER 3, 2009

Page 2

Total Percent

REXFORD TOWN COUNCIL MEMBER UNXP

VOTE FOR 1

WRITE-IN . . . . .	28	100.00
Total . . . . .	28	100.00
Overvotes . . . . .	0	
Undervotes . . . . .	26	

LINCOLN CO PARTISAN-NON PARTISAN ISSUE

VOTE FOR 1

FOR AMENDMENT ADOPTION . . . . .	2,542	51.02
FOR RETAINING EXISTING GOVERNMENT . . . . .	2,440	48.98
Total . . . . .	4,982	100.00
Overvotes . . . . .	5	
Undervotes . . . . .	22	

\*\*\*END OF REPORT\*\*\*



Exhibit B

Resolution No. 981

WHEREAS, In 1974, the Montana State Constitution set forth that all counties would be governed by the Elected Official form of government; and

WHEREAS, The statutory basis for elected county official government is MCA 7-3-111 and sub-option MCA 7-3-413 clearly states that local government elections shall be conducted on a partisan basis; and

WHEREAS, In 2009, the Board of Commissioners mistakenly decided to hold an election on November 9<sup>th</sup> which resulted in a change from partisan to non-partisan elections in Lincoln County; and

WHEREAS, This erroneous and wrongful action has resulted in Lincoln County being in non-compliance with the law; and

THEREFORE BE IT RESOLVED by the Lincoln County Board of Commissioners that this resolution hereby nullifies the results of that unlawful 2009 election and returns Lincoln County to partisan elections and compliance with MCA 7-3-413 and the Montana State Constitution effective January 1, 2017.

LINCOLN COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Mike Cole, Chairman

\_\_\_\_\_  
Mark L. Peck, Member

\_\_\_\_\_  
Gregory L. Larson, Member

Attest: \_\_\_\_\_  
Robin Benson, Clerk of the Board

## Exhibit B

Resolution No. \_\_\_\_\_

WHEREAS, In 1974, the Montana State Constitution set forth that all counties would be governed by the Elected Official form of government; and

WHEREAS, The statutory basis for elected county official government is MCA 7-3-111 and sub-option MCA 7-3-413 clearly states that local government elections shall be conducted on a partisan basis; and

WHEREAS, Lincoln County held an erroneous election on November 3, 2009, which resulted in a change from partisan to non-partisan elections in Lincoln County; and

Whereas, the election and several actions taken pre and post - election were inconsistent with the law and the Montana State Constitution (see attachments); and

WHEREAS, This flawed action has resulted in Lincoln County being in non-compliance with MCA 7-3-413 and Lincoln County wishes to become compliant with the law again and return to partisan elections; and

THEREFORE BE IT RESOLVED by the Lincoln County Board of Commissioners that this resolution hereby returns Lincoln County to partisan elections and compliance with MCA 7-3-413 and the Montana State Constitution effective January 1, 2017.

~~or~~  
\* ~~BE IT RESOLVED by the Lincoln County Board of Commissioners that this resolution hereby returns Lincoln County to partisan elections and compliance with MCA 7-3-413 and the Montana State Constitution effective January 1, 2017.~~

The Commissioners understand that this resolution is subject to approval by District Court and/or the Montana Attorney General and see this resolution as the initial step toward that ultimate goal.

LINCOLN COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Mike Cole, Chairman

\_\_\_\_\_  
Mark L. Peck, Member

\_\_\_\_\_  
Gregory L. Larson, Member

\* this resolution was further modified verbally by Commissioner Larson to eliminate the "seeks" option.  
S.C.

## Exhibit C

September 28, 2016

The Lincoln County Board of Commissioners met for a regular session on September 28, 2016, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Cole, Commissioner Larson, Commissioner Peck and Clerk and Recorder Robin Benson.

Commissioner Cole opened the meeting with the **Pledge of Allegiance**.

### 9:45 AM Maggie Anderson/New Grant: Meeting Cancelled

**10:00 AM Vic White / Policy Manual / H.R. Update:** Present were Vic White, Dallas Wamsley, Alan Gerstenecker, Caleb Soptelean, Alan Gerstenecker and Kristan Nemeroff, Eureka via VisionNet. Vic said the Personnel Policy and Procedure Manual is ready but he has one correction to make before it can be signed. There was a brief discussion about the hiring process for the county administrator position; specifically where the position will be posted outside the county. Dallas said the commission can look at a list of places suggested by Matt Pickett. Dallas said the new State PERS system conversion has been down since its inception which is causing stress and is difficult to get required reports completed on time. Advertisements for two job postings will be going out for the Eureka and Libby Road Departments.

**10:30 AM Administrative Issues:** Present were Alan Gerstenecker, Tina Oliphant, Ric Kesling, and Ernie Anderson.

- The Commissioners read the minutes for September 14, 2016 in its entirety. **Motion by Commissioner Peck** to approve the minutes as amended by Commissioner Larson. Second by Commissioner Peck, motion carried unanimously.
- **Motion by Commissioner Larson** to sign a letter of support of the Kootenai River Development council and a Big Sky Trust Fund application for a Planning Grant for Preliminary Engineering for a Water Main Extension of the Kootenai Business Park. Commissioner Larson said there is a lot of discussion on the water needs of the area and this will allow for determining costs and alternatives for a future reliable potable water supply.
- Robin Benson submitted a brief write up on the Economic Impact of the Libby and Eureka Airports to the commission for review. The submittal was sent to Robin from Tim Orthmeyer, Morrison and Maierle.
- IT Director, Ric Kesling updated the commission on the status of the current server/computer issues the county has recently been dealing with. There will be work conducted over the weekend, and the system should be back and running efficiently on Monday.
- Clerk and Recorder Robin Benson informed the commission that a Joel Openheimer, Inc. established since 1969 will restore the 1909 survey of Lincoln County. The quote is between \$4500 to \$6500, but they cannot get an actual cost to us until they see the map. The company is located in Chicago. Robin said the records preservation fund is healthy at \$76,000 and wanted the opinion from the county commission as to whether to move forward with the restoration project. All commissioners were in agreement the 1909 survey of Lincoln County should be restored and framed for the public to view.
- Robin discussed District Boards that historically have not been appointed with commission approval. Robin said there are many laws to learn regarding boards and how they function. Each board training helps to educate herself and also the board members as well. Robin said next spring she is hoping to have a person from the Department of Administration at the board training to help answer questions from the board members, the county commission and the Clerk and Recorder. We are headed in the right direction each time we all gather under the same roof collectively.
- Commissioner Peck commented that it is time to start discussions on long term budget strategy now. Drilling through mandatory vs. discretionary services and the level of services the county offers to the public. We need to train and empower department heads to look at their budgets and the relationships with revenues. It is felt that there are opportunities to improve efficiencies that departments are not aware of at this time. Commissioner Larson added that we need to look hard at duplicated services and attain public input. Commissioner Peck said it would be beneficial to organize a citizen group representing Libby, Troy and Eureka in an advisory capacity. If we are going to prioritize services then the public needs to be involved in that process. Robin Benson will draft a resolution from the commission on process, timeframe, mission and expectations of a citizen group.

**11:00 AM Public Comment Time:** Present were Maggie Anderson, Alan Gerstenecker and Caleb Soptelean. Maggie Anderson representing Unite for Youth Program submitted a 2016 Montana Prevention Needs Assessment Survey by youth in grades 8-12. The survey is administered in schools by the Department of Public Health and Human Services (DPHHS). The survey is a comparison of youth drinking statistics from 2008 to 2016 in Lincoln County. Commissioner Peck asked if there has been an increased presence of the county in the schools and connectivity with tobacco prevention as well as alcohol education. Maggie said she works alongside the county health department and appreciates the commission acknowledging the importance of public health. Maggie said the efforts by the county health department have made a big difference, especially with Tobacco Prevention Specialist, Amy Fantozzi joining the county health department. Maggie discussed some of the kid's leadership opportunities and said we need more occasions to encourage and build up a kid who may feel a reduced self-worth. Commissioner Peck expressed the importance of mentoring by parents, extra-curricular activities such as sports, choir, band etc...that are positive influences. Maggie informed the commission of an upcoming community meeting with Jermain Galloway who speaks nationally on drug abuse, media, music, and signs and symptoms of drug use education for parents. The community meeting is scheduled for Thursday, October 6, 2016 in the Ponderosa Room from 9:30-11:30 AM. Maggie discussed a new supplementary grant for a community program called Unite for Youth and STOP Underage Drinking which identifies ways to be more comprehensive in prevention efforts.

**1:30 PM Planning Department Update:** Present were Lisa Oedewaldt, Josh Letcher, Jennifer Curtiss, Steve Curtiss, Mike Cuffe, Bob Windom, Rita Windom, Rhoda Cargill, Bonnie Larson, Alan Gerstenecker, and Steve Gunderson. Also present via VisionNet were Paul Wachholz, Dawn Marquardt, Sara Amojoni, and Darwin Pluid.

- **Livingston Family Transfer** off of Sophia Lake. The Planning Department has received a request from Robert Wunderlich, (Glacier Surveying) on behalf of his client Beverly Livingston, to transfer a portion to her daughter, Marky Hinkle, and to her son Mark Livingston. **Motion** by Commissioner Peck to approve the Livingston Family Transfer with Option 2 as recommended by planning staff. Second by Commissioner Larson, motion carried unanimously.
- **Velvet Grove 1 and Velvet Grove 2 Final Plat Approval:** **Motion** by Commissioner Peck to approve final plat for Velvet Grove 1 & 2 subject to planning staff recommendations. All conditions have been met per planning staff.
- **Geldrich Lake Shore Permit** on Upper Thompson Lake. **Motion** by Commissioner Larson to approve Geldrich Lake Shore Permit subject to planning staff recommendations. Second by Commissioner Peck, motion carried unanimously.
- **Nelson Lake Shore Permit** for Jeffrey & Dhana Nelson on Middle Thompson Lake. **Motion** by Commissioner Larson to approve Nelson Lake Shore Permit subject to planning staff recommendations. Second by Commissioner Cole, motion carried. Commissioner Peck recused himself from voting due to being related to the Nelsons.
- **Velvet Grove Lots 3-5 Subdivision Preliminary Approval:** **Motion** by Commissioner Larson to approve preliminary plat for Velvet Grove Subdivision Lots 3-5 subject to planning staff recommendations. Second by Commissioner Peck, motion carried unanimously. Commissioner Cole requested that a stop sign be placed on Airport Road. Lisa will add the stop sign as part of the conditions for approval.

**2:00 PM Callahan Creek:** Present were Mike Fraser, Lisa Oedewaldt, Mike Cuffe, Josh Letcher, Steve Curtiss, and Jennifer Curtiss.

Mr. Fraser updated the commission on the process regarding the Callahan Creek Restoration Project. The work/restoration schedule and tracking the budget will be combined. Mr. Fraser submitted a removal plan to the commission for review. There are 3 private owners that will be contacted to attain permission to enter and provide access of the county as well as agreement for removal. Commissioner Cole asked if there will be road building to access properties. Mr. Fraser said there will be a minimal amount of road work. The commission signed Task Order 2; approved two weeks ago during the regular commissioner meeting. Mr. Fraser said we are making progress towards the restoration and feels it is a good plan. We know what we are doing and are moving forward, but we do have to work alongside other agencies.

**2:15 PM Study Commission Update:** Present were Study Commission Members Josh Letcher, Rita Windom, Steve Curtiss and Bonnie Larson. Also present were Alan Gerstenecker, Mike Cuffe, Jennifer Curtiss, Rhoda Cargill, Bob Windom, Steve Gunderson, John Rios, Charles F. Woods, Charlotte Woods, Robert Mast, and Leland R. Kibler. Steve Curtiss on behalf of the Lincoln County Study Commission said the study commission is honored to serve in their position and although there have been challenges they have learned a lot and are glad to be able to do this service for the county. Steve presented Findings of Fact and supporting documents stating that in 1974 the Montana State Constitution set forth that all counties would be governed by the Elected Official form of government. The elections were required by law to be partisan elections with no exceptions. The Elected Official form of government is the current form of government in Lincoln County. The Study Commission, upon review, believes this form of government has served the citizens of Lincoln County well and should be retained. The Findings of Fact further state that in 2009, the Board of Lincoln County Commissioners made a significant mistake by entering a process that culminated in a special election on November 3, 2009 to change elections from partisan as required by law for our Elected Official form of government, to nonpartisan elections. In order to hold nonpartisan elections, the citizens would be required to engage in a process to change the form of government to one other than Elected Official. It is important to understand that the process used to attain the special election was in and of itself a flawed process. Steve read the Findings of Fact in its entirety. The Study Commission strongly recommends the commission to return to partisan elections. Bonnie stated that during the process, it was interesting to have had the ability to visit with a District Judge and with attorneys. Bonnie stated that Lincoln County is currently acting outside the law and outside the constitution by holding nonpartisan elections.

Rita commented that it has been an interesting journey over the past two years. She is thankful to the Clerk and Recorder's Office, especially Election Administrator Leigh Riggelman and Deputy Clerk Chris Nelson for their diligence in researching old records and finding data requested by the study commission. Rita commented that visiting with legal counsel it raises questions and issues of potential lawsuits. Rita said her biggest concern is how the partisan issue and election went through its journey and came through fruition. There was definitely a lack of transparency and feels strongly that the public did not know what was going on and feels the public would not have voted for nonpartisan if they were informed of the history and facts. Josh said he feels it is best for the county to be back in compliance with the law and the county commission does have that authority.

Steve asked if the commission had any questions after reading the packet submitted prior to today's meeting. Commissioner Peck said he feels the information in the packet is pretty compelling and that it is clear that mistakes were made especially in process. The argument will be people voted on it, although there is no denying it was on a flawed process. The biggest issue now is how to drill out the ramifications on how to move forward. The issue must be acted on one way or the other. Steve said the options are very slim; Elected Official form of government by law must hold partisan elections. The issue was given to the people to vote on in a very erroneous and flawed process, this is the whole problem. As the Study Commission Board, we conclusively concur this is not a legislative issue. It is a local issue, a decision by the county commission. The Study Commission believes the commission has the lawful authority to pass a resolution. Rita asked if after reviewing the packet is there a recommendation by the commission to draft a resolution? Commissioner Peck agreed the county is currently outside the law. Commissioner Cole said that as a board they have not discussed the information in the packet yet, but it is a situation that does need to be dealt with. Commissioner Cole commended the study commission for their work, time and research on this issue.



Steve said it is never a desire to point fingers or prosecute anyone, we simply are saying the study commission board unanimously requests the problem be fixed so Lincoln County is operating within legal statutes. Steve feels the county commission would not want the legal responsibility of not fixing this and strongly advises commission to draft a resolution. The Study Commission will be holding more public hearings and presenting the findings of fact after which the study commission will prepare a final report. Steve said the study commission is asking the Lincoln County Board of Commissioner to entertain a motion to bring this issue back into compliance by resolution.

Rita informed the commission that there is a small window of time to be in compliance by January 1, 2017. The study commission feels certain that their research is correct and requesting the commission to by resolution put Lincoln County back to partisan elections is the correct process forward. Commissioner Larson who is an ex-officio member of the study commission, attending most of the meetings, agrees the county needs to come back into compliance and supports a resolution.

Alan Gerstenecker asked if there is an alternative solution through the judicial system or judge to make a decision; was that considered an option by the study commission? Steve said members of the study commission did meet with a district judge and it is recommended the county quickly go back into compliance.

Rita asked Clerk and Recorder Robin Benson to explain the difference between partisan and nonpartisan. Robin said the main difference is in ballot layout for local candidates only, who would be on both the republican and democrat ballots in the primary election.

**Motion** by Commissioner Peck that no later than December 15, 2016, the county commission will have a resolution prepared and voted on by the commission. **Second** by Commissioner Larson. Commissioner Cole asked for further discussion. Steve questioned if December 15 allows enough time for the commission. Commissioner Peck said this should not carry over to another commissioner and it gives ample time to research and ensure the process is correct and have a vote on.

Steve informed the county commission that the study commission is available and able to assist in this process. Rita commented that she would like to have the resolution as part of the study commission's final report, the public needs to know this is being discussed. Rita said the study commission is doing their part on getting information to the public and the county can build on that.

Robert Mast commented the public meetings are advertised and he is hoping for a large public turnout.

John Rios asked if the public will be invited in commission discussions or involved in the resolution verbiage.

Commissioner Peck said all discussions will be an agenda item.

**Motion carried unanimously.**

Rita commented that the study commission started out to study county government and they would have looked more in depth into county departments, but when this issue came along, we thought this was the most prudent issue to spend time on. Commissioner Larson said we may need a handout on pertaining to partisan and non-partisan and what it means.

People need to understand that it is a ballot layout issue and following the law.

John Rios asked about the study commission not having opportunity to look at all the departments and does that mean we have to wait another 10 years to look into departments? Commissioner Cole said it is always an ongoing process year after year we are always looking at all departments and how to improve.

Commissioner Peck stated that in the near future the county is going to be looking at services, we cannot continue as is with the decreased revenues. It would be beneficial to have citizens from Eureka, Troy and Libby on a committee to act in an advisory capacity on the county budget. Citizens need to be involved in the services if we are prioritizing them. In our current form of government, it is citizen participation and is the duty as a citizen to participate in local government business and decisions. Commissioner Peck stated for clarification that under this form of government, there is limited authority over elected officials. Elected officials have their own statutory guidelines and requirements.

The County Commission thanked the Study Commission for two years of research, time and commitment.

3:30 PM Meeting Adjourned:

#### LINCOLN COUNTY BOARD OF COMMISSIONERS

Mike Cole, Chairman

ATTEST:

Robin Benson, Clerk of the Board



Exhibit D

November 16, 2016

The Lincoln County Board of Commissioners met for a regular session on November 16, 2016, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Cole, Commissioner Larson, and Recorder Robin Benson. Commissioner Peck was in attendance via VisionNet from 10:00 to 11:00 A.M.

Commissioner Cole opened the meeting with the **Pledge of Allegiance**.

**10:00 AM Partisan/NonPartisan Resolution Vote:** Present were Bobbi Stokes, Bonnie Larson, Steve Curtiss, Josh Letcher, Robin Haidle, WM Boucher, Roger Pressell, John Stokes, Richard J. Avery, Dave Guild, Linda Guild, Rhoda Cargill, Jennifer Curtiss, Madelon Martin, Kurt West, John Brunner, Susan Horal, Bob Horal, Linda Babb, Darrell Babb, Gloria Schmidt, Gregg Johnson, Bert Hall, Matt Charlton, Linda Curtis, Randy Wilson and Nikki Meyer. Also present from Libby via VisionNet were Alan Gerstenecker, Kay Watson, John Rios, Donna Rios, Charlotte Woods, Linda K. Gerard and Vic White.

Commissioner Cole welcomed and thanked the public for attending. Robin handed out copies of the resolution to the public. Commissioner Larson stated he has been working with the study commission over a year and has reviewed the Findings of Fact, researched the history and has attended most of the Study Commission's public meetings.

Commissioner Larson is convinced moving forward with the resolution for Lincoln County to become compliant with the law and the Montana Constitution is the right thing to do. Commissioner Peck said that as he reads the statutes combined with a very compelling report by the study committee, in his opinion the nonpartisan issue as it is should be reversed, however, there has been no legal determinations or legal assurance the resolution process is right. The facts as known today, Commissioner Peck said he believes the 2009 election was not properly done. If the answer is the resolution, he will support it, but it has not been vetted through county attorney. Commissioner Peck continued saying that as a county commissioner, we have not publicly advertised a public hearing for turning over a process that the people voted, although it was done wrong. Today, to vote on that, is premature. Commissioner Peck said he would like to schedule a public hearing because the public deserves to know the decision of the commission and why it is being made. We need to get this right and make sure as a county we are on solid ground. Commissioner Cole said he concurs with Commissioner Peck and agreed the information brought forth is hard to dispute. Commissioner Larson said that he did send the resolution to the county attorney and MACo attorney, but has not heard back yet.

Steve Curtiss thanked the commission for addressing this issue. Respectfully as a rebuttal to Commissioner Peck's comments, the Study Commission has worked diligently for one year and has put much effort to get this issue out to the people. Steve said that in February 2016 Dan Clark from the Local Government Center, Bozeman informed the public of this issue and the issue was publicly recognized in 2015. The Study Commission has put together a serious document and has made it available to the public for over a year. In May 2016 the study commission held a public meeting in Libby with Dan Clark with the commission in attendance. A public open house was held in Eureka again with Dan Clark present. In all meetings attend by Mr. Clark, he clearly stated to the public that Lincoln County is not compliant with the law. The study commission held more public meetings, the point being that for one solid year there has been a serious process of educating the public. Respectfully, to Commissioner Peck, the Study Commission as an elected group feels the public has been notified and presented the facts. This process has gone on for over a year. The amount of time the public has been involved is satisfactory for the commission to make a decision today. The Study Commission has done everything to maintain the public process. This is probably the study commissions last public meeting and it is time for us to get our final report to the state. The Study Commission would like to write in the report that local government did correct Lincoln County back to being compliant with the law and the Montana Constitution.

Bonnie Larson introduced herself to the public. She reiterated that the study commission's two year term ends soon. We are here to serve the commission and the public. Bonnie read the Findings of Fact to the public in attendance. The Study Commission supports the county commissioners to pass a resolution to make Lincoln County compliant. The County Commissioners carry out law and implement budgets. It is very important that our form of government be according to the law. If Lincoln County is not compliant with the law then we are set up for lawsuits and decisions overturned made by the commission. The Study Commission is here to lend our support for the commission to return Lincoln County back in compliance. The study commission did visit with several attorneys and a district judge. The study commission received excellent opinions and conducted extensive research and we (study commission) would not make a recommendation to the county commissioners without a unanimous agreement that Lincoln County become compliant with the law.

Bobbi Stokes said the Finding of Facts were presented to the county commission in September and questioned what has the commission done since it was presented six weeks ago. Commissioner Cole said the commission is conducting research and presenting it to legal counsel. Commissioner Larson verified that he sent the Finding of Fact to the county attorney, but said the county attorney may be biased because he was involved and named in the document.

Rhoda Cargill asked who specifically is the legal resources? Commissioner Cole said the county attorney and MACo attorney. Rhoda said this issue has been ongoing for many months and this is a precedence setting action by the county commission. That being stated, any direction the commission goes is at risk because there is no precedence and without precedence what is right? This issue has been discussed enough, the direct route is to put Lincoln County back in compliance with law by resolution. Rhoda ended by saying she, respectfully asks the commission to have the courage to pass the resolution today.

Linda Babb said she attended the public meeting at Riverstone Lodge in Eureka and at that time it was going to be run through the attorneys. Why did you wait all this time to do so? You (county commission) need to make a decision, you are elected to make decisions.

Josh Letcher said he agrees with Commissioner Peck to have a process. As a study commission we have done the public meetings, newspaper articles, pamphlets, booth at the fair, questionnaires, and had public meetings during county commissioner meetings. At the last meeting in September the commission stated they would vote to pass a resolution to make Lincoln County compliant. Now Commissioner Peck is requesting more meetings and to pass this in four weeks?

Commissioner Peck said he is not looking for an absolute answer, but wants to look at what the legal people say. I do not personally feel that I have all the information needed to make a decision today. Josh said it is the commissioners judiciary responsibility to get this done.

Commissioner Peck stated the study commission has done your duty and done it well, now it is my job to make a decision in the window of opportunity that we agreed upon.

Dave Guild said with respect to the commissioners, this issue has been known for a long time, yet not jumped on it and had it resolved prior to the 2016 general election. Commissioner Cole disagreed stating the last presentation by the study commission to the county commissioners was a little over a month ago. Bobbi Stoken commented that the study commission had the option to have something ready to put on the ballot, but the study commission chose not to do this. John Rios said he is a member of the Lincoln County Republican Central Committee and he would like to pose two questions. When was the question asked to the county attorney and how much time do you give him to give an opinion to the commissioners? John said he attended the public meeting held at the Ponderosa Room and maybe there is legal precedence; it was said that the Montana Attorney General has given an opinion to a similar situation so there actually has been some legal precedence. Steve agreed that the attorney general has given an opinion under Elected Official form of government must have partisan elections. The opinion was provided by Dan Clark. John asked when the county attorney will answer the query to give commission time to act prior to December 15 as agreed upon. Bobbi said the county attorney was involved at that time and did advise commission to put the nonpartisan issue to the voters although MACo had said clearly to not do this. Bobbi said the county attorney is biased and should not be a part of the decision made by the county commission. Commissioner Peck said that if we do not get something from the county attorney then we will have to make a decision without it. Commissioner Peck said he will talk to Dan Clark about the AG opinion.

**10:30 AM Administrative Issues:**

- The Commission signed the Federal Financial Assistance Award Cooperative Agreement 17-PA-11611400-004 between Lincoln County and the USDA, Forest Service Kootenai National Forest. The county accepts the award of \$25,000 for the Ksanka Creek Restoration Planning Project. **Motion** by Commissioner Larson to accept and sign the agreement as submitted. Second by Commissioner Cole, motion carried.
- **Motion** by Commissioner Larson to sign the annual MACo/CRS Inmate Excess Medical Insurance Program Renewal. Second by Commissioner Cole, motion carried.
- Commissioner Larson presented the Montana Logging Association 2016 Winter Meeting in Kalispell December 2 & 3, 2016 as informational to the commission.
- The Commissioner read the minutes for November 9, 2016. **Motion** by Commissioner Larson to approve the minutes as submitted. Second by Commissioner Cole, motion carried.
- Robin informed the commission she will need date, time and location for any public notice to be submitted to the newspapers for the partisan/nonpartisan issue discussed earlier today.
- Robin submitted the Interlocal Agreement between Lincoln County and the Town of Eureka in order to establish a City-County Board of Health for Lincoln County.

**11:00 AM Public Comment Time:** Present were Randy Wilson, General Manager Interbel Telephone Coop., Inc., Eureka.

Randy Wilson discussed his efforts to bring local Montana TV Networks to Lincoln County. Lincoln County has been in the Spokane demographic market area since the 1960's before we had Montana networks. Randy has submitted a petition to put North Lincoln County in the Montana DMA which was approved by the FCC August of this year. Randy said that people want Montana news and there was no opposition from Spokane networks. Randy said his goal is to expand it to satellite customers. Commissioner Larson asked how to get this for South Lincoln County. Randy said he would re-write certain sections of the petition to include South Lincoln County. The FCC does allow county government to apply for a DMA modification for satellite viewers. Randy said there would be no cost to the county. Randy said he would offer to direct this effort with commission approval. Commissioner Larson said he would coordinate efforts to put this on the commission agenda for November 30, 2016.

**1:30 PM Planning Department: Cancelled**

**12:00 PM Meeting Adjourned**

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

Mike Cole, Chairman

**ATTEST:** \_\_\_\_\_  
Robin Benson, Clerk of the Board



Exhibit E  
December 1, 2016

The Lincoln County Board of Commissioners met for a special session on December 1, 2016, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Cole, Commissioner Larson, Commissioner Peck and Clerk and Recorder Robin Benson. Also present were Jerry Bennett, Mike Cuffe, Bob Henline, Charlotte Woods, Rhoda Cargill, Betty J. Ward, Valerie Crabtree, Lee Kibler, Bonnie Larson, Jim Johnson, Steve Gunderson and Alan Gerstenecker. Present via telephone conference were Chas Vincent and Rita Windom. Present from Eureka via VisionNet were Steve Curtiss, Bobbie Stoken, John Stoken, Nikki Meyer, Jennifer Curtiss, Richard T. Avery, Gregg Johnson, Bert H. Hall, Darrell Babb, Linda Babb, Dave Guild, Linda Guild, Madelon Martin, WM Boucher, and Josh Letcher.

**2:30 PM Partisan/Nonpartisan Issue Continued Discussion:**

Commissioner Cole explained the purpose of this meeting is to continue the discussion about the partisan/nonpartisan issue and come up with a plan moving forward.

Commissioner Peck said he has spent last week in conversation with MACo, Dan Clark, two District Judges, County Attorney Bernard Cassidy and Steve Curtiss. His conclusion from speaking with the judges and MACo attorneys is that there is no dispute the 2009 election is wrong and Lincoln County is outside Montana Code; it is very clear we must hold partisan elections. Commissioner Peck stated that nobody has given any argument to that. The issue is how do we fix it and get it back to where it is supposed to be. The first thing to consider is who has authority to bring us back into compliance. As a county commissioner we do not have authority to overturn the vote of the people. The very form of government and statutes that restrict what has already happened to be incorrect, the very reason we are here today, are the same statutes that restrict the commission from doing what the Study Commission has requested. A resolution would mean nothing; it is only an internal statement of policy with no legal binding. The only authority as county commissioners is what is granted through M.C.A. Lincoln County is not a charter form of government, all research and conversations confirms we (county commission) do not have the authority to do what has been requested. What is the best legal way to move forward and put us back in the law are two options...judicial or legislative. Only a judge has the authority to overturn a certified election. A judicial fix could mean an Attorney General opinion, the other option is that is goes to Helena. Mike Cuffe stated that it would be very complicated at the legislative level and thinks the process has already been set out by the study commission. Mr. Cuffe said he admires the study commission for wading into this and is amazed at how we got here. The Commissioners have to make a decision. The legislative route would be July 1 at the very least and Mr. Cuffe did not recommend going this way. Mr. Cuffe recommended the county commission go ahead and do the resolution; it is the county commissioners' decision to make. Mr. Cuffe said that if it is ignored, something is going to happen. The quicker the resolution is signed, the better. It is very clear a wrong thing was done. Mr. Cuffe stated he thought it can be done at the commissioner level, but he has not looked at the statutes.

Rita Windom said it is her understanding that other counties are also encumbered with this mess and those counties would have representatives in the legislature willing to help as well as MACo; we should look at the overarching needs of other counties.

Commissioner Larson requested the District Judge look at this and determine if it can be reversed or what it would take to be reversed.

County Attorney Bernard Cassidy said that having been involved, he may have conflict of interest. Mr. Cassidy stated that since there are 13 other counties in the same fix, if it comes before a court, who has standing to raise this issue? Maybe there could be some sort of interim resolution to put this on the ballot so the people can vote. He stated he believes we would have to take a look at all these questions.

Commissioner Larson commented that we cannot offer an election on this topic under the elected official form of government. Mike Cuffe said that if what we are dealing with now is that an election was held based on improper decisions, why hold another election?

Commissioner Larson stated that if a resolution was passed and the county would go back to partisan elections, having someone object and take it to court, would be a way to get it in front of a judge sooner than later.

Steve Gunderson said he feels a resolution would set the tone. Commissioner Cole expressed that passing a resolution only changes the litigants if it does go to court. Commissioner Larson said the current commission is already involved because it falls on us now. Commissioner Larson said a resolution would not be a fix, but a step in the right direction.

Jerry Bennett asked Chas Vincent what his thoughts were on a legislative fix since 13 other counties are in the same situation. Chas Vincent said that it is apparent something has been missed and not just by Lincoln County. He would be interested to see what the background is with other counties before getting involved in this further. A question would be if the legislature could do something for Lincoln County and not the other counties. Chas continued stating that Lincoln County has twice voted to not change the form of government and he does not believe they want to change it in the future. The voters were very clear on this more than once.

Bernard Cassidy said the commissioners could set up a study committee that would include MACo, attorneys and possibly the attorney general.

Commissioner Larson clarified that he does not care what the other counties do, more interested in Lincoln County becoming compliant with statutes and the Montana Constitution. Commissioner Larson brought up the fact that a resolution was never signed by the commissioners back in 2009 to bring the issue originally to the voters.

Mr. Cassidy expressed that he felt strongly this issue needs to have a more formal look at how we got here in the first place.

Mr. Cuffe explained the study commission spent over a year studying this and held public meetings and questioned if the study commission could present this to a judge.

Commissioner Peck said we could take a two pronged approach and questioned if the issue can move forward judicially and take it to the legislature now and proceed down both paths simultaneously?

Mr. Cuffe asked Mr. Cassidy how long it take with the judicial route? Mr. Cassidy stated that anytime an issue goes to court you are depending on and are subject to appellate process; years if appealed to the Supreme Court. Mr. Cassidy

said he does not necessarily disagree with the two pronged approach, but cannot speculate on timeline. Mr. Cassidy said it would be wise to get independent outside counsel.

Steve Gunderson asked if a legislative fix would be proper for just Lincoln County or would it be something necessary to include all counties. Mr. Gunderson said he thinks it would be more expedient with a judicial fix. The legislature may give more options on ways to approach this, but feels we need to know if we have common ground with other counties.

Jerry Bennett said he is not opposed to a resolution stating what was done improperly, but need to find a path moving forward to correct it and put Lincoln County back into compliance. Commissioner Peck said a resolution could be an official proclamation the county is committed to fixing this.

Mr. Vincent said he could visit with Harold Blattie to get an idea or example of what a statutory fix could mean, possibly a road map on how to clear this up and he would like to find out what other counties may want to be involved in this and research the legislative process. Mr. Vincent expressed the importance that we proceed cautiously and he is willing to do some homework to find what the legislative fix would look like for Lincoln County and then proceed about a coalition of other county involvement.

Steve Curtiss stated that the study commission came to the county representing the people and he is very opposed to the legislative fix, saying that we do not care what other counties do. The desire is for a resolution that represents the voice of the people with a focus on what we can do for our county. People do not want to change our form of government, which has been very clear. Bringing this issue to the vote of the people would have the same problem already existing. The Study Commission chose not to put this on the ballot, but the law still needs to apply. The law clearly states Lincoln County's form of government must have partisan elections. We have done all the study, research, spoke with attorneys and judges. Steve warned to be careful what you wish for; a legislative fix may not end with the result of what the people of Lincoln County want. The outcome needs to remain as the elected official form of government.

Mr. Vincent said there is possibility to put triggers in legislature to craft this in a way to protect the form of government.

Mr. Vincent said he is willing to look into this, but we are only weeks away; there may not be enough time. Commissioner Larson said the governor may veto this because it is precedence setting.

Rita commented that we need to keep in mind that the law is pretty specific. The county can create a resolution that questions the validity of the partisan/nonpartisan election in 2009 and that the county wishes to move forward in accordance with the form of government to be in harmony with the type of elections held in Lincoln County.

Bonnie said this is a hard issue and thanked the commission for their involvement stating there are wonderful heads here to find a solution. Bonnie continued saying a resolution by itself will bring Lincoln County back to compliance whether it has teeth or not and at the same time to continue to move ahead with the district court process. Going with legislature may create unfavorable results.

Jerry said he does not think it would be harmful to get a basis of understanding from other counties, but at the same time believes the fix should be judicial. Jerry said he agrees with Bonnie.

Commissioner Peck said his preference would be to see a bill that gave the commissioners authority to revert back to our form of government and put back in partisan and become compliant. One concern with legislature is that I disagree with any approach that does not protect our form of government.

Rita reminded everyone this only came forward since this study commission brought the issue to light which is why it has not been fixed or discussed in prior years.

Mr. Vincent said he will be in touch with any concepts or ideas before moving forward.

Commissioner Peck thanked the study commission for bringing this issue forward, putting in the research and thanked everyone in attendance stating the issue is ours to fix, but we do it within the law, within the statutes, whatever right is.

Commissioner Peck said he appreciates the citizens showing up and participating and applauds the citizens for their participation. This is a mess, but we (county commissioners) will get it fixed.

Jim Johnson said he has 50 years of service and experience with resolutions and negotiations. Jim agrees to a two pronged approach, but feels the two prongs stated by Commissioner Peck is the wrong direction. Jim said nobody can trust the legislation and strongly expressed this is not a way to go. Jim said judicial and judges are also a big problem clarifying the two prongs are resolution to become compliant and return to partisan elections subject to approval from the attorney general.

Rhoda Cargill asked if a resolution can correct procedural error. Commissioner Peck said yes under normal circumstances, but the minute the election was certified and not challenged makes it a whole different ballgame. Rhoda feels a resolution is good to show intent and would be very interested in the county attorney's opinion vs. a legislative fix. Rhoda said she favors a resolution to be put forth with verbiage to cement the elected official form of government. Bonnie commented the certification for the election in 2009 was incorrectly stated by inaccurate dates and feels the certification was wrongfully certified also. Rhoda said there are enough procedural errors for a resolution act by the county commission.

Richard Avery said the fact that the vote was to retain our form of government, there should not be any recourse on the commission for the county trying to be compliant with the law. Richard said he agrees the county should pass a resolution and get approval from the Attorney General.

John Stoken commented the 2009 election was in conjunction with a school election and the statutes stated it should have been a general election, why give precedence to the results?

Rita said we need to use caution that we do not study this issue to death; the paper trail is very clear and we should come to a fairly quick timely solution to this issue. We do not need a committee to do what the study commission has already spent a year doing.

Commissioner Larson said he would support a resolution with teeth subject to attorney general or district judge approval.

Commissioner Peck said he feels that is well worth exploring.

Alan Gerstenecker questioned if the 2009 election could be declared moot since there were so many procedural errors?

Commissioner Peck said the only way to do that is through a judge?

Commissioner Cole again thanked the public and study commission. The county commission will take this under advisement and will continue this conversation. Steve Curtiss asked if the December 15 timeline is still effective.

Commissioner Peck answered yes we are still shooting for a solution by December 15.

4:30 PM Meeting Adjourned

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Mike Cole, Chairman

**ATTEST.** \_\_\_\_\_  
Robin Benson, Clerk of the Board



In November, 2014, the voters of Lincoln County, Montana, voted to authorize a local government review of county government to be conducted by five voted upon members. Herein after, the term study commission refers to the members performing their duties to review the structure and services of Lincoln County government.

#### FINDINGS OF FACT

In 1974 the Montana State Constitution set forth that all counties would be governed by the Elected Official form of government. The elections were required by law to be partisan elections with no exceptions.

The Elected Official form of government is the current form of government in Lincoln County. The Study Commission, upon review, believes this form of government has served the citizens of Lincoln County well and should be retained.

In 2009, the Board of Lincoln County Commissioners made a significant mistake. They entered a process that culminated in a special election on November 3, 2009, to change elections from partisan, as required by law for our Elected Official form of government, to nonpartisan elections. In order to hold nonpartisan elections, the citizens would be required to engage in a process to change the form of government to one other than Elected Official. It is important to understand that the process used to attain the special election was in and of itself a flawed process.

The election was held by mail-in ballot and the voters expressed their desire to vote in the future by nonpartisan ballots. That action placed Lincoln County in non-compliance with the law. In-depth research by the Study Commission leads its members to believe this mistake must be rectified and Lincoln County must be returned to partisan elections.

Documents in the Clerk and Recorder archives have been researched that substantiates the flawed process. A packet comprised of said documents has been prepared and given to the current Board of Lincoln County Commissioners.

The Study Commission recommends the Board of Lincoln County Commissioners pass a resolution in a timely manner that rectifies the non-compliant election and returns Lincoln County to partisan elections.

Lincoln County Local Government Study Review Commission 2014-2016

Steve Curtiss

Steve Curtiss, Chairman

Bobbie Stoken

Bobbie Stoken, Vice-Chairman

Rita Windom

Rita Windom, Commission Member

Josh Letcher

Josh Letcher, Commission Member

Bonnie Larson

Bonnie Larson, Commission Member

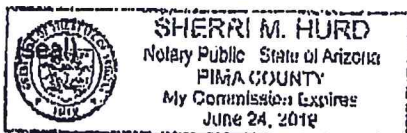
State of Arizona

County of Pima

On December 22, 2016, Rita Windom, personally  
appeared before me,

       who is personally known to me

X whose identity I proved on the basis of valid Montana Drivers License to  
be the signer of the above document, and witnessed her signature to the same.



Sherri M. Hurd

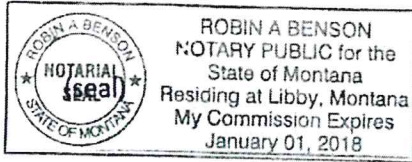
Notary Public

My Commission Expires: June 24, 2019

State of Montana  
County of Lincoln Residing in Libby

On December 22, 2016, Steve Curtiss, personally appeared before me,

☒ who is personally known to me  
\_\_\_\_\_ whose identity I proved on the basis of \_\_\_\_\_ to  
be the signer of the above document, and witnessed her signature to the same.

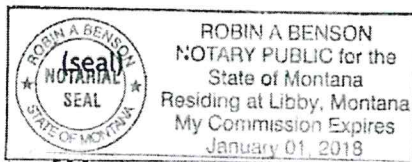


Robin A. Benson  
Notary Public  
My Commission Expires: 01-01-2018

State of Montana  
County of Lincoln

On December 22, 2016, Bobbie Stoken, personally appeared before me,

☒ who is personally known to me  
\_\_\_\_\_ whose identity I proved on the basis of \_\_\_\_\_ to  
be the signer of the above document, and witnessed her signature to the same.

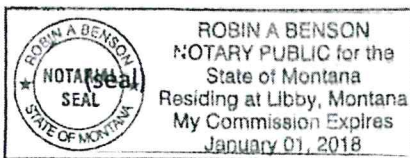


Robin A. Benson  
Notary Public  
My Commission Expires: 01-01-2018

State of Montana  
County of Lincoln

On December 22, 2016, Josh Letcher, personally appeared before me,

☒ who is personally known to me  
\_\_\_\_\_ whose identity I proved on the basis of \_\_\_\_\_ to  
be the signer of the above document, and witnessed her signature to the same.



Robin A. Benson  
Notary Public  
My Commission Expires: 01-01-2018

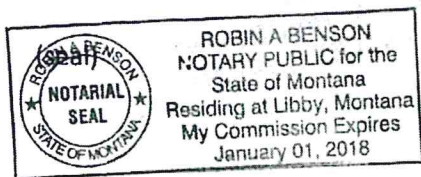
State of Montana  
County of Lincoln

*Residing in Libby*

On *Dec* December 22, 2016, Bonnie Larson, personally appeared before me,

☒ who is personally known to me

☐ whose identity I proved on the basis of \_\_\_\_\_ to  
be the signer of the above document, and witnessed her signature to the same.



*Robin A. Benson*

Notary Public

My Commission Expires: *01-01-2018*